LEGISLATIVE ASSEMBLY

Wednesday 27 September 2006

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ABSENCE OF MR SPEAKER

The Clerk announced the absence of Mr Speaker.

Mr Deputy-Speaker (The Hon. John Charles Price) took the chair at 10.00 a.m.

Mr Deputy-Speaker offered the Prayer.

Mr DEPUTY-SPEAKER: I acknowledge the Gadigal clan of the Eora nation and its elders and thank them for their custodianship of this land.

DEATH OF THE HONOURABLE ERIC LANCE BEDFORD, A FORMER MINISTER OF THE CROWN

Mr GRANT McBRIDE (The Entrance—Minister for Gaming and Racing, and Minister for the Central Coast) [10.00 a.m.], by leave: I move:

> That this House extends to Mrs Bedford and her family the deep sympathy of the members of the Legislative Assembly in the loss sustained by the death on 8 July 2006 of the Hon. Eric Lance Bedford, a former Minister of the Crown.

I acknowledge the presence in the visitors' gallery of Jo Bedford and other members of the Bedford family. Today I pay tribute to the late Hon. Eric Lance Bedford, who was born on 19 February 1928 at Concord and who sadly passed away on Saturday 8 July 2006, aged 78 years. Eric was born to Roy Oswald and Clara Rosalind Bedford and I understand his only sibling was a younger brother, Ross, who predeceased him. Eric lived a life of service to the people of New South Wales. He was a schoolteacher, in fact, the first schoolteacher to become a Labor Education Minister in this State. He subsequently served in the New South Wales Parliament from 24 February 1968 to 31 December 1985—17 years, 10 months and 8 days.

Following his retirement from Parliament Eric continued to remain active. From 1986 to 1990 he chaired the Local Government Grants Commission, from 1988 to 1998 he was Chair of the Hastings Higher Education Association, and from 1996 to 2001 he was President of the Association of Former Members of the New South Wales Parliament. He also remained an active member of the New South Wales Geographical Society and the Australian Labor Party [ALP], to which in the year 2000 he was awarded life membership—the highest honour in the party. Such a life of service is not possible without family support, and I make special mention of Eric's wife, Jo Bedford. The two of them made a great team.

Eric and Jo were married on 6 May 1950. They were fortunate to have three beautiful daughters, Robyn, Julie and Judy. Tragically, the Bedford family was struck by the sad and premature deaths of two daughters, leaving behind grandchildren on whom Eric and Jo have doted. For those who live on—wife Jo, daughter Judy, and the grandchildren, Dominique and Tamara, Nicole and James, Adam and Joel—the spirit of Eric continues to live on also. I first met Eric when I was a member of the Canley Vale branch of the ALP in Western Sydney.

Eric was universally well liked and highly respected by all. He was a good-humoured, generous, open and engaging person. He was a talented politician and a worthy Minister holding the ministries of Education, Planning and Environment, Industry and Decentralisation, and Small Business and Technology in the Wran era. In fact, during the period when he was the Minister for Industry and Decentralisation, and Small Business and Technology, he gave me the tie I am wearing today. I found it quite moving when I put it on this morning. I have always kept the tie, and it has always been for me a memory of Eric.

Eric was highly valued, well liked and respected by Premier Wran. Eric was someone I both admired and saw as a role model. Many others share my respect and admiration for Eric, and I invited some of those who attended Eric's funeral or provided tributes to have their words incorporated into today's condolence motion. The

claim is that Gough Whitlam recruited Eric back to the active list of the ALP and encouraged him to seek public office. In his letter to Jo, Gough Whitlam says in part:

> Our family and many thousands of families will remember Eric's contribution to their lives and grieve with you and your family at this time.

From Neville Wran, I quote in part:

> Above all Eric Bedford's political life was characterised by his loyalty—his loyalty to the Labor Party, his loyalty to the Government in which he served, his loyalty to the leadership and his colleagues, to his family and most of all himself. Few men who have been elected to this chamber (the New South Wales Lower house) have left it with the respect and good will which Eric Bedford enjoyed.

I repeat what Neville Wran said:

> Few men who have been elected to this chamber (the New South Wales Lower house) have left it with the respect and good will which Eric Bedford enjoyed.

Terry Sheahan, a Wran Minister and mate of Eric's, delivered the official eulogy, in which he captured the virtues and the spirit of the man. Commenting on Eric's first speech—what used to be known as a maiden speech—on 21 August 1968, Terry says:

> A genuine inner spirituality also comes through in his sensitive account of the varying needs which his multicultural constituency faced in regard to places of worship and community support services.

At one point in his speech he said, simply but emphatically:

> I consider it my duty to press relentlessly for the alleviation of the problem.

> And for the next 18 years on the back or on the front bench in Fairfield (1968-81) or Cabramatta (1981-85) he did just that.

Janice Crosio, a former Wran Minister, Federal member and Mayor of Fairfield City, was Eric's next-door neighbour, so to speak, in the adjoining electorate. Janice was also part of the strong western Sydney Labor representation in the Wran era, many of whom came from a local government background, like George Pacullio, John Aquilina, Janice Crosio and Pam Allan. Janice says of Eric, simply but powerfully:

> Eric was a wonderful human being and a genuine Man of the People.

Nick Lalich, the current Mayor of Fairfield City, a long-time friend and colleague of Eric's and a former pupil when Eric was a teacher at Liverpool Boys High, says in part:

> As far as a teacher goes, I remember Eric as a fairly hard teacher, but I felt he was very fair. I copped a lot of canning from Eric and probably deservedly so.

Nick goes on:

> As a State Member he did a lot of work for Cabramatta and for the Fairfield community which we are indebted for.

Greg Friedewald, Press Secretary to Eric from June 1980 to December 1985, says of Eric:

> First and foremost he was a wonderful person. As his Premier, Neville Wran said at his funeral he was probably too nice a bloke for the cut throat world of politics.

Greg refers to Eric's achievements that are not well documented since his passing, namely his involvement in the Wran Government's environmental achievements:

> … saving of the forests, the move to lead free petrol, waste management and the management of critical national parks like Kosciusko and Lake Mungo.

Eric's staff are acknowledged in Terry Sheahan's eulogy. I would like to conclude with an Eric story provided by his former press secretary Michael Ross, who worked for Eric between 1976 and 1980:

> Eric had two major dislikes: He hated queuing for food, and he hated dinner suits. He promised all of us when he retired, he would have a party we would all be invited to at Zanzibar, his retirement property at Logans Crossing, near Kendall (where he

> proudly flew the State flag from a flag pole.) And, he would run his dinner suit up the flag pole, and salute it, and then bring it down and burn it in the open fire. And that he duly did!

I am told that story is true. It says something of the character of Eric Bedford. I lay on the table for the information of members, as part of my comments today, the correspondence from Gough Whitlam and Neville Wran, the eulogy delivered by Terry Sheahan, which covers the life of Eric Bedford better than I could ever do, and the correspondence from Greg Friedewald, Eric's press secretary.

Mr IAN ARMSTRONG (Lachlan) [10.13 a.m.]: I join the Minister for Gaming and Racing, and Minister for the Central Coast in extending my appreciation for the life of Eric Bedford, particularly in this place, and my sympathy to his wife, Muriel, and family. I think Mr Speaker, John Aquilina, and I are the only members of the current Parliament to have served with Eric Bedford. I came to this place in 1981, at which time Eric Bedford was Minister for Planning, and he then went on to become the Minister for Education after the next election.

The Minister has outlined Eric Bedford's history in this place well, including some of the lighter side of Eric. He was a most pleasant man. He was one of the old school; there is no doubt about that. He played politics hard, but very professionally and with great sophistication. There was none of the pedestrian chitter-chatter nonsense, and so forth, that sometimes goes on in parliaments these days. Eric Bedford and his colleagues were tough debaters, they were good researchers, they were good thinkers, and they had a mission to be in this place because they respected very much their responsibilities in having been elected to the Parliament to achieve something on behalf of the people of New South Wales, and particularly those in their electorates.

I always found Eric Bedford a very easy role model to follow: he was decent, focused and friendly, he played hard politics, and he was a great believer in the Australian Labor Party. But whatever he did, he did very strongly and very successfully. Like many people of that time, he was self-made virtually. I note from his biographical profile that he went to Fort Street Boys High School and Sydney Teachers College. He taught for 11 years at country schools. No doubt, that was the reason for his being such a decent man, because country schools certainly are fantastic, at any time. He married Muriel Glennon in 1950, and obtained an arts degree through external study with the University of New England. No doubt he was teaching at a school when he undertook those external studies. In those days, people had to work very hard, and it is amazing what they achieved. Eric Bedford was certainly focused on education and on high academic qualifications.

Eric taught economics and geography at Liverpool Boys High School from 1958. The Minister outlined his entry into the ALP via Gough Whitlam. His parliamentary profile also mentions the story about the dinner suit and his being somewhat opposed to it. Another story I would like to tell, which is also referred to in Eric's biographical profile, is one that further demonstrates his sense of responsibility in this place. As the *Sydney Morning Herald* obituary says:

> "If it is possible for a politician to be loved, Eric Bedford was loved by one and all", his former press secretary, Michael Ross, said. Ross recalled visiting Tamworth when all accommodation was booked out. The National Party MP, Noel Park, put Bedford and Ross up at his place, and drove the minister to a local ALP branch meeting.

That is what you call bipartisan support. But it could only happen to Eric Bedford, because he was one of those sorts of people. That is one of the reasons why I found him to be such a good friend. I will not go so far as to say he was my mentor. Eric came to my electorate a couple of times whilst he was Minister for Education. Driving from town to town and chatting with Eric was always a positive thing. You could be a friend of Eric's, and you could be a professional colleague of Eric's, irrespective of your politics or your beliefs. To me, that is a sign of a great man and someone who is intelligent and is really proud of what they are doing. The *Sydney Morning Herald* obituary goes on:

> Bedford implemented the Environmental Planning and Assessment Act, regarded as a model for environmental planning in Australia. He was disappointed to find that it was being exploited by business people. The Government decided in October 1982 and January 1984 to preserve rainforests by preventing logging operations—something Bedford regarded as a personal triumph.
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> He was reinstated to the education portfolio in 1984 and then transferred to industry and decentralisation, small business and technology …
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> Retiring to Zanzibar, a hobby farm on the Mid-North Coast, he flew the state flag from a pole on the property. He was a keen fisherman and tried to attend an opera whenever he visited Sydney.

The other reason I believe Eric Bedford was a good bloke is that he bred horses. Anyone who breeds horses has to be, first, very game, second, very foolish to think they are going to make any money, and third, have a

wonderful interest with other horse breeders. I always enjoyed Eric's company. He was a fairly regular visitor to this place after he retired from politics. We would say to him, "How are the horses going, Eric?" We would both have a story to tell. I said, "Eric, you never ring me up when one is going to win." He said, "Well, there wouldn't be very many phone calls." He certainly enjoyed his horses and had a great love for them, as does his wife. That was one of those great bonding things as far as I am concerned. I have great admiration for people who are in the horse industry.

The Eric Bedfords of the world and of the Parliament make it a much better place. I would like to think that Eric will be remembered by members and that members might take note of his biographical profile, which is available from the Parliamentary Library. As a role model for today, I think we could all probably learn something from the likes of Eric Bedford, and from Eric in particular. Once again, I extend my sympathy to his family. It was a privilege to work here with him.

Mr JOSEPH TRIPODI (Fairfield—Minister for Energy, Minister for Ports and Waterways, and Minister Assisting the Treasurer on Business and Economic Regulatory Reform) [10.19 a.m.]: As honourable members know, Eric Bedford was the member for Fairfield. On behalf of the electorate of Fairfield, I convey condolences and an enormous sense of indebtedness and gratitude to Eric's family for the sacrifices he made through his commitment to public office and to the Labor Party. While I never had the chance to know Eric as a member of Parliament—I was a bit young at the time and he retired the year I joined the Labor Party—he is well known and still well regarded in the local community. Although years have passed, Eric left a mark and he is well remembered and well regarded in the local community.

Two things come home to me in relation to Eric Bedford, and those two things are extremely important to the people of Fairfield. The first is his long passion for the Labor Party. The stories I hear around the place about Eric Bedford, his commitment to the party and his understanding that the party is the only vehicle that exists, in effect, to help the kinds of people who populate Fairfield are well recorded and well known. The stories about the people who used to go to Eric's home before and after meetings and how well received they were, his commitment to party members, the fact that he always listened and was always guided by party members, have rested in the minds and memories of many people in the local community.

Eric Bedford understood that the Labor Party was the only effective vehicle to help people such as those who live in Fairfield. His passion and understanding that the Labor Party would be a vehicle for reform, to ameliorate and improve the lives of a challenged community in the sense of its socioeconomic makeup, are important. The second thing was Eric's enormous passion for and commitment to public education. One thing the Labor Party understands, and Eric Bedford also understood, is that public education is an important vehicle to allow people to get out from the working classes and to progress themselves. That meal ticket, that very important vehicle, that institution that is public education, is a crucial way of allowing people who make up the electorate of Fairfield to break free from the challenges they confront.

The Fairfield electorate, at the time Eric was the member—the electorate later became Cabramatta—was a community made up of more than 100 ethnic communities, as it is today. Today it has 133 nationalities and 88 different languages; it is similar to what it was when Eric was the local member. These people have two important needs; firstly, the need for the Labor Party to be successful and to provide them, as immigrants with all the challenges they face, with opportunities; and, secondly, the need for the important egalitarian nature of public education. Eric understood both of those needs. He understood the significance of these institutions and he had a passionate commitment to ensuring that they functioned well and delivered for the people of his electorate.

On behalf of the people of Fairfield, and all those who benefited from Eric's contribution through his public life, I thank Eric and his family for everything he achieved. It is only fair that he is recognised in this Parliament. To the family I say this: The stories are still around and Eric is still well regarded. Many families in the Fairfield electorate and in Cabramatta were touched by his work. Eric is fondly regarded and will always be remembered by the people of Fairfield.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [10.23 a.m.]: The passing of former New South Wales Government Minister and Camden Haven resident Eric Bedford is a tragic loss for the State of New South Wales. A senior member of the Wran Labor Government for 17 years, all State members of Parliament held Eric Bedford in high regard for his integrity and his passion for New South Wales. Unlike the honourable member for Lachlan, I was not involved in politics at the time, but I understand that Eric Bedford was a tough but fair politician. I am told that he was always prepared to resolve disagreements with members

from my side of politics through intelligent and constructive negotiations. The son of an electrician, Eric was originally a teacher and taught at various country schools across New South Wales. He had a long involvement with and a strong commitment to his party, the Labor Party. In 1966 he even did a stint as campaign director for former Prime Minister Gough Whitlam before he himself entered politics in 1968 as the member for Fairfield, which later became the seat of Cabramatta.

From 1976 Eric was given the education portfolio for more than three years, and then went on to be the environment Minister, industry Minister and Minister for small business before retiring in 1985. I understand that Eric Bedford's main reason for leaving politics was to spend more time with his family and friends. Why would he not when he retired to the beautiful Camden Haven? However, Eric still stayed on in the public sector as president of the Former Members of NSW Parliament Association from 1999 to 2001. He was also an adviser to the Minister for aging from 1996 to 2001. While Eric Bedford may have been from the wrong side of politics, he certainly settled in the right part of New South Wales. After his retirement from politics he relocated from his home in Sydney's west to the district I call the best part of the best country in the world.

Mr Ian Armstrong: You're biased.

Mr ANDREW STONER: I am biased, and rightly so. Eric Bedford settled at Logan's Crossing near Kendall, which is part of Hastings shire, in which I also reside. It is a beautiful place. The honourable member for Lachlan mentioned Eric's passion for horses. On his property, he bred and trained race horses, and quickly became a popular local identity in Camden Haven. Unlike many former members of Parliament who keep wanting to have their two bobs' worth, Eric stayed out of local politics wherever possible, other than supporting his local Labor branch in Camden Haven, which often met in Bob Martin's former pub at Kew. While I think Eric would have liked nothing more than to get rid of me from the seat of Oxley and have me replaced with a Labor member, nevertheless he never made those views known publicly, and he never took any shots at me publicly. Indeed, the dealings I had with Eric have engendered in me the view that he was an absolute gentleman.

I have a particularly fond memory of Eric following the candidates' forum that had been arranged at Wauchope before the last State election. As one does with these particular forums, one has mostly supporters of both sides come along and very few dispassionate members of the public. On that particular evening there were some particularly passionate members of the Labor Party. One in particular took great delight in having a loud shot at me and questioning virtually everything I said—the person may have had a drink too many before attending the forum. Following that, Eric approached me and apologised for the behaviour of that person, who was a member of the Labor Party. That spoke volumes to me about the type of man Eric Bedford was. His death at the age of 78 is a tragic loss of a man who put politics aside wherever possible for the betterment of the State of New South Wales. On behalf of The Nationals, I express our sincere condolences to Mrs Bedford, his family and friends. He will be fondly remembered and greatly missed.

Ms PAM ALLAN (Wentworthville) [10.28 a.m.]: My political career did not overlap that of Eric Bedford. Certainly he was gone from the Parliament before I was elected in 1988. However, I had the enormous pleasure of knowing Eric when he was the Minister for Education and I shall make some remarks about that time. When I look back at Eric's political career I realise that the years that he began his ministerial service in this place coincided with the years that I began my political adulthood.

My first year of teaching in the New South Wales secondary school system was 1976 and in 1977 I became a full-time official with the New South Wales Teachers Federation. From 1977 to 1981 I had the opportunity to know Eric and the people around Eric. I have friendships with people who also worked extremely closely with Eric Bedford. I particularly mention Alan Ruby, Vivienne Howe and Vic Baueris. Michael Ross is in the gallery this morning and he was one of two people named Michael Ross who worked for Eric Bedford when he was Minister for Education. That was my first opportunity to get to know Michael, who has since had a very colourful career working for various Ministers and other organisations.

Eric Bedford was highly respected by the New South Wales Teachers Federation, and I think Eric reciprocated that respect. Eric became the Minister for Education in the Wran Government following a period of enormous acrimony within the New South Wales teaching service and the public education system. I have looked at Eric's various speeches about the challenges to public education when he was Minister for Education. Eric came into this Chamber following the enormous legacy of bitterness, fighting and industrial action between the Askin Government and the Teachers Federation. Those two great political and industrial juggernauts met

during the time of the Askin Government because Askin had a huge ideological agenda to oppose the New South Wales Teachers Federation.

In one of his speeches to Parliament Eric highlighted the leadership of the then Teachers Union, which for many years was led by Sam Lewis, a prominent communist. Not only was the president of the union a prominent communist, the organisation was a repository, a home for communists. In 1977 when I became an official of the union I was one of the very few non-communists operating within it. There were a handful of members of the Australian Labor Party at that time—Graham Ashton, Vic Baueris and several others—in the union. We were regarded with some suspicion because we were seen to be on the right wing of the industrial movement.

Nevertheless, despite the organisation being dominated by communists at the time, when Eric became Minister for Education he managed to develop a very close working relationship with it. In fact, members of the new Opposition—a legacy of Askin who were still in Parliament at that time—made various attacks on Eric in this Chamber. They used to rubbish Eric Bedford because he had the hide to meet with the New South Wales Teachers Federation without the presence of a representative of the director general of education. Eric was attacked on the floor of this Chamber because he had regular meetings with the Teachers Federation without representatives of the Department of Education. Most Ministers now would find it incredulous that a Minister would be attacked for meeting with a major stakeholder without a departmental representative present. But in those early years of Eric's ministry of education he had to withstand those sorts of attacks.

As a result of the very acrimonious relationship that existed between Askin and the union there were great expectations of Eric when he became the Minister for Education because the expectation was that Neville Wran would deliver for public education. Indeed, Neville Wran, his team and Eric did deliver many gains for public education, partly because Eric Bedford knew the public education system so well. One need only look at his maiden speech and other speeches in this Chamber to know he was intimately acquainted with the requirements of the education system. It would be great if every Minister who has been elected since Eric Bedford was the Minister for Education were as intimately aware and had such a detailed knowledge of their portfolios. When Eric Bedford became the Minister for Education he certainly had that knowledge.

In his maiden speech in this Parliament, long before he became the Minister for Education, he spent most of his time talking about education, the needs of teachers and students, class sizes, disadvantaged schools and school maintenance. Those issues have continued to plague education Ministers and governments since that time, but Eric was aware of all those matters. Inevitably, relationships between unions and Ministers can deteriorate, and that certainly happened with the Teachers Federation, which was and still is a very challenging organisation. It makes huge demands on government to satisfy the needs of education. Education is an enormous portfolio area covering many aspects. Despite the Teachers Federation taking industrial action while Eric was the Minister, he was still polite during the strike. I do not think a Labor Minister for Education, or a Labor Premier for that matter, has been as polite to the New South Wales Teachers Federation since the days of Eric Bedford. He always retained that politeness. I think that was why he was regarded with so much affection in the upper echelons, of which I was not one, of the Teachers Federation. People such as Max Taylor, Barry Mayfield and Jennie George all appreciated the qualities Eric possessed.

When one reads Eric's speeches, and the speeches that have been made about Eric, particularly at his funeral, one realises that friendships were very important to him. The Minister for Gaming and Racing has already laid upon the table for the information of members Justice Sheahan's valedictory speech. I want to lay on the table a great speech of Roy Medich, who is also in the gallery, at the eulogy. The eulogies of both Terry Sheahan and Roy Medich had in common the warmth they felt for Eric, the warmth from Eric that was generated to them as his long-term friends and the love and support that Eric Bedford gave to his family. I was not at the funeral but I had a tear in my eye when I read those two wonderful speeches.

When Roy described Eric Bedford he used the word "calm". Interestingly, last night I spoke to a senior public servant when Eric was Minister and he used the same word "calm" about Eric Bedford. It is obvious that Eric would have needed to be calm when dealing with the Teachers Federation and later when, as Minister for Planning and Environment, he was part and parcel of one of the greatest decisions that any government has made in New South Wales, that is, the protection of the northern rainforests. Recently, when Neville Wran was talking about a book that had been written for the anniversary celebration this year for the Parliament he referred to that decision.

It is not an uncommon practice—and I do not think political parties would want it any other way—but Premiers are usually identified with those decisions more strongly than the people who might have had the nuts and bolts carriage of them. We will always think of the protection of the northern rainforests in this State as Neville Wran's outstanding achievement, but Eric Bedford was the Minister for Planning and Environment and was deeply involved in that very contentious process. Not only were Eric Bedford and Neville Wran in Cabinet at the time but they were also fierce supporters of the forestry movement and industry. A great friend of Eric Bedford at that time, Don Day, was the Minister responsible for protecting the interests of forestry workers, who wanted to log in those areas.

There were fierce debates around the Cabinet table between those two powerful advocates for their various interests, but they remained friends despite those impassioned arguments. Eric had the carriage of that proposal in Cabinet and I am assured that he was absolutely up to speed on the detail of the proposal. I recall someone saying that he was passionate in his own quiet way to ensure that that decision came to pass. Another of Eric Bedford's great environmental achievements, also referred to by Terry Sheahan in his eulogy, was that he was the responsible Minister when the New South Wales Environmental Planning and Assessment Act became law. His predecessor in the portfolio, Paul Landa, was the architect who brought it to Cabinet, but Eric Bedford had the responsibility of implementing it and for making sure its implementation was both smooth and seamless. It was Eric's calm demeanour and his ability to explain things that ensured that that would be the case.

Environmental planning issues continue to be of pre-eminent political importance in this State. We are still trying to negotiate between people who want to prevent development and those who want to develop. The issue does not go away. The fact that that major legislation was orchestrated by Eric Bedford speaks volumes about his contribution to this place. I, like previous speakers to this motion, am very sad that Eric has passed away at the age of only 78. He made an enormous contribution to the New South Wales Parliament and to the Labor Party. He made an enormous contribution to his family and his friends, and I wish his family well in the future.

Mr RICHARD AMERY (Mount Druitt) [10.41 a.m.]: I join with other members of the House in supporting this condolence motion on the passing of the Hon. Eric Bedford. I extend my deepest sympathy to Jo and her daughter, Judy, and her grandchildren, extended family and friends. Only last week this House passed another motion of condolence on the death of Kevin Stewart, who passed away only a short time after Eric Bedford. For those of us who only became involved in the Labor Party in the 1970s, Eric's death reminds us of how much time has passed since those days, and just how many of those who led Labor back into government in 1976 are now gone. Kevin Stewart and Eric Bedford have joined Pat Hills, Jack Ferguson, Ken Booth, Harry Jensen, Sid Einfeld and Jack Renshaw. They represent a great loss to Labor history in this State.

Members of Eric's family know the high regard in which he was held as a successful member of Parliament and Minister, and other speakers to this motion referred to that. Some of those who knew him would also refer to the high regard in which he was held as an individual. Although Eric was 78 years old—I note the honourable member for Wentworthville said "only" 78 years old—his passing came as a shock to many of us. I had been talking to him at a book launch in the precincts of this Parliament only a short time before he passed away. We had gathered with many members and former members of this House, and Eric looked so well and seemed so happy. To hear only a short time later that he had passed away was, as I say, somewhat of a shock and saddened me greatly.

I am one of the few members of this House whose tenure overlapped Eric Bedford's period of service. I was elected in late 1983, when he was already a Minister. Yesterday I tried to recall the first occasion on which I met him. I think it was about 1977 at a Labor Party gala fete out at Hollywood, near Georges River. I am sure that was the first occasion on which I met him, and the first occasion on which I met Gough Whitlam and Neville Wran, who had recently become Premier of New South Wales. I was a new member and if I asked questions or sought advice on any issue, Eric would make himself available to help and to give advice. I was never given the impression that I was holding him back from his other duties or that he would like to be somewhere else, and he always concluded his conversations with me with words of encouragement.

Eric retired from the New South Wales Parliament in 1985 and I was appointed a Minister in 1995. Although I did not know him socially in his retirement years I had occasion to meet him in an official capacity at dinners for former members and so on and he always had words of encouragement for me in regard to my day-to-day duties. It was a role he adopted for himself. A lot of Eric's history, as the Minister for Gaming and Racing said, was centred in the area in which I was brought up. Looking at Eric Bedford's public background I see that he taught at Liverpool Boys High School. Whilst I did not attend that school, some of my older

brothers did in the late 1940s or early 1950s and although he did not to teach them, they certainly crossed paths at different stages of their lives.

In his inaugural speech given in this House in 1968 Eric referred to many of the problems experienced by and pressures placed on residents living in the outer suburbs of Sydney. I was pleased to note that, in that speech, he mentioned the town of Canley Heights, which was very much part of the electorate of Fairfield or Cabramatta, depending on the redistribution that was in place. I spent the first 14 years of my life living at 24 Beelar Street, Canley Heights, and left there in 1965 at the time when Eric was working up his political career as campaign director for various branches and as campaign director for Gough Whitlam in 1966, and so on. Our home was small, the road was unsealed, Bosnjak's bus service had been established for only a short time, the sanitary man collected the pans from an outside toilet—I have to say that I was about 12 before I first saw a flushing toilet; that was in a commercial building in Liverpool and I recall asking my father how it worked—and many homes in our street had been brought there in two pieces on the back of trucks. Those were the sorts of suburbs that existed in outer Western Sydney.

If honourable members refer to Eric's inaugural speech they will note that he raised those types of issues in 1968. I left the area in 1965, but it was many years before those issues were addressed. I note the strong emphasis on education, not only in the contributions today but also in Eric's inaugural speech. Education had to encompass the growing population and also the large number of migrants who were settling in Western Sydney as part of the post-war migration scheme. Another strong point in Eric's inaugural speech was his emphasis on libraries, not only public libraries but school libraries. I attended Canley Heights Public School and the library used to arrive on the back of a truck. I cannot recall whether it was every day or once a fortnight, but that constituted the Canley Heights Public School library during the early to mid-1960s.

Eric's inaugural speech also called for the installation of sewerage in all homes. It is interesting to note how those suburbs in Western Sydney, and in north-west and south-west Sydney, are built today. To take a line from Eric's speech, he said that sewerage should be a prerequisite for the development of residential areas and also for homes built in an existing street. He firmly believed that something as basic as sewerage should be a prerequisite of councils and planners before a house was built. As we know, that is the state of play today. The other issue he raised very strongly related to the redevelopment of Fairfield hospital, something that I have had experience with. Fairfield hospital looked as though it was made of bent steel and had been designed like old army huts. Today, although not on the same location, it is a very modern facility.

Reading Eric's inaugural speech may have been just a memory jogger for me, but it demonstrates how many basic issues were brought to the attention of the Government and to the policymakers in the Labor Party, remembering that when he made that speech Labor was in opposition. Many of his criticisms were directed to transport in the region, the overcrowding of trains and the need for improved bus services, and it is easy to see where shadow Ministers such as Peter Cox got information to formulate that election-winning transport policy in 1976. With Eric's passing we see the end of another part of the important history of the development of Western Sydney. We say farewell to a Minister who pioneered policies like the preservation of rainforest, and to a Minister who was a leader in the national debate to have lead-free petrol introduced into New South Wales and, ultimately, all of Australia.

Ministers and members of this place can be the target of campaigns to undermine their character and so on, and they may leave Parliament with their character and reputation somewhat damaged, whether the criticism of them has been fair or not. Eric Bedford represented in this Parliament a very tough and developing part of Western Sydney. He managed very difficult portfolios, as were mentioned by the honourable member for Wentworthville, those of education—which, like health, is probably one of the two toughest portfolios in government—as well as planning and environment, at a time when dramatic changes were taking place and this Parliament was considering issues such as prevention of the logging of rainforest and the change of fuel for motor vehicles. Those were all very contentious issues. But Eric left the Parliament and those portfolios with his reputation and character absolutely intact. I know that the Labor Party is very proud to have had a member and Minister like him, and I know that the family are very proud of the service, personal and professional, of the person that was Eric Bedford. My deepest condolences to everyone concerned.

Mr ALAN ASHTON (East Hills) [10.51 a.m.]: I begin by offering my condolences to the late Hon. Eric Bedford's family and friends and by supporting the sentiments that other members have expressed today. I was not a parliamentary colleague of Eric Bedford, but I was one of his 40,000 or 50,000 employees because for many years I was a schoolteacher before my election to this place, just as Eric Bedford was. I am sure many public servants have little interest in who their State Minister is, but that is not so in teaching. The commitment

of the Minister to public education and his or her beliefs in the decency of teachers and the students they teach are imperative and have a vital role to play in raising the morale of teachers throughout the State.

I was very proud to be a teacher and very pleased to know that the Minister, Eric Bedford, really cared about what we were doing. In the years that I was teaching Eric Bedford was a popular and respected Minister. He had taught at Liverpool Boys High School—I taught at Busby High School for many years—and he also taught at Bankstown Girls High School, which is just outside my electorate of East Hills. Interestingly, Eric Bedford was elected to Parliament in 1968, the year of the first ever strike by New South Wales government teachers—of course, under a Coalition Government at the time. In 1976 Eric Bedford became the Wran Government's first Minister for Education. I understand he was the first teacher chosen to be a Minister for Education. He was to oversee many progressive changes in the New South Wales Department of Education. When I began teaching there were, on average, 38 students in each high school class. During Eric's time the number dropped to 32, and later to 30. This did not happen by accident. In Eric Bedford's inaugural speech in August 1968 he said:

> Our young people must be adequately equipped to take their place in society in an age of rapid scientific and technological advancement. Though this is a laudable objective, I would remind the House that education is not a matter of curriculums and courses alone.

Eric Bedford recognised the vital role that school accommodation, equipment and particularly staffing play in expanding educational opportunities. He also identified a problem, which remains nearly 40 years later, when he said in his inaugural speech:

> Much of the blame rests with the Commonwealth, which constantly refuses to face up to the responsibilities that are heaped on the shoulders of our State and local government authorities.

Nothing has changed, Eric. He also identified the issue of school class sizes in his electorate: in primary schools, 74 of 197 classes were oversize, in junior secondary 45 of 103 were oversize, kindergarten classes were oversize, and composite classes were endemic in Sydney's south-west in areas that Eric represented. He was acutely aware that "averaging" class sizes, as bureaucrats were wont to do, did not advance the educational opportunities of disadvantaged students. It is very easy to say, "We have an average of 30 in the class." But, if some classes have 20 for some particular reason, what good is that to the teacher and students in a class of 40?

He recognised that in the late 1960s New South Wales was losing teachers to Canada. My French teacher at the time was one of those. Half a dozen teachers left my school, Picnic Point High School, to go overseas and teach in Canada for the much greater salary and respect that teachers earned over there. In the 1970s, of course, someone had to bite the bullet and the Coalition Government then had to import thousands of teachers from overseas to catch up on the decline in teacher numbers Eric Bedford had warned of in 1968. I remember that in the year I began teaching at Busby High School there were 23 first-year-out teachers and half of them were Americans. Whilst some stayed on in the New South Wales education system and became Australian citizens, I have to say, to use the vernacular, there were many you wouldn't feed!

Eric Bedford was passionate about the need for local and school libraries. That came through not only in his career as a member of Parliament but was foreshadowed in his inaugural speech. As a great supporter of libraries, both public and in schools, his was a great statement to make. It came at a time when many libraries—as at the school I attended—were just a classroom upstairs that no-one much went into. I have to say that the librarian at my school tended to take the view that any children who came into the library were a bit of a problem, and the quicker the librarian could get them out of the library the better. I am sure the people in the public gallery, guests of the honourable member for Port Macquarie, would know that they have much better libraries now. In part, that has to do with the role that Eric Bedford played, because he was passionate about the need for local and school libraries.

On a personal note, I did meet Eric Bedford on quite a few occasions while I was working with education Minister Rod Cavalier—some years ago now—and also when he attended luncheons for former members here at the Parliament. I always sought him out to say hello and remind him of the respect that I and so many teachers had for him when we were under his care as the Minister for Gaming and Racing. The role that Eric Bedford played as Minister for Planning and the Environment has been mentioned by other members, such us the honourable member for Wentworthville, the honourable member for Mount Druitt and the Minister. That demonstrated how the Wran, and later the Carr, governments emphasised the importance in New South Wales of creating, protecting and enhancing our natural environment. That is an issue of which Labor governments, certainly since 1976, can be justly proud.

I will conclude with one personal anecdote, which I have related to quite a few people over the years. In the late 1970s I was a young aldermen, as we were called then, on Bankstown City Council and was representing the mayor at an East Hills District Choir and Music Festival at Bankstown Town Hall, where Eric Bedford was the official guest as Minister for Education. He was met by me and a senior departmental bureaucrat, who began his conversation with me and Eric Bedford by quite strongly, almost nastily, criticising the New South Wales Teachers Federation. He possibly thought he would score some brownie points by bagging the union to Eric. Eric listened politely to the officer for quite some minutes without making any comment at all. Then he turned to me and said, "Oh, by the way, what do you do, Allan?" I said, "I'm a high schoolteacher, Eric, and I'm also the federation representative at my school." Eric just laughed out loud, and we both wandered off to enjoy the night's entertainment, with the senior bureaucratic tagging along about four or five metres behind. Eric Bedford was a genuine parliamentarian who never forgot that he was once a schoolteacher. Once again I express my condolences to his family and friends, and record that any Parliament would be a better place with members like Eric Bedford in them.

Mr ROBERT OAKESHOTT (Port Macquarie) [10.59 a.m.]: I also express condolences to Eric Bedford's family. I will not speak so much about his role as an education Minister but about his role as a local constituent, as Eric retired to the mid-North Coast and lived a full and active live in retirement in and around the community of Kendall. I knew of Eric's reputation before I knew the man. The reputation I knew was that he was one of many retired members of Parliament who seem to be attracted to the mid-North Coast. It was a pleasure to finally meet Eric and then to build what was to become a lasting friendship. So much so that on several occasions I had the pleasure of visiting his house for various reasons, from a cup of tea through to some of the functions Eric used to have to raise a bit of money to help various community groups and do what he could in his retirement to support the community he lived in.

It is no small irony that today the Parliament of the Hastings Public School is visiting Parliament House. Eric would have loved the fact that the school Parliament from Hastings is here listening to condolences for him, given that he had so much to do with education and is probably most famously remembered for his role as education Minister. The man I knew, however, loved his fishing. He certainly loved the races and became an active member of the Port Macquarie Racing Club. It is well known behind the scenes that Eric Bedford had an awful lot to do with getting funding for, and making happen, the grandstand, the Ivan Livermore Stand, that is now considered part of the racetrack infrastructure. The Ivan Livermore Stand is now an integral part of the Port Macquarie Racing Club and the Port Macquarie community. The Port Cup is coming up on Friday week, and people there will be sharing a few thoughts and a few drinks in Eric's memory.

Eric passionately flew the flag every day at home. He loved his fishing. At his funeral his neighbour told a wonderful story about a couple of Eric's failed and successful attempts at fishing. He was certainly having a great retirement and it was a huge loss to the community when all too quickly word spread around that Eric had passed away. On behalf of the Port Macquarie electorate and personally, I say that both a valuable community member and a friend has been lost. I join with the House in passing on my condolences today.

Mr GRANT McBRIDE (The Entrance—Minister for Gaming and Racing, and Minister for the Central Coast) [11.02 a.m.], by leave: I would like to read extracts from some notes that were prepared by Mr Speaker, which I will lay on the table for the information of honourable members. Mr Speaker says:

> In September 1981 I was elected to the State Parliament as Member for Blacktown and Eric Bedford was one of the persons I could always turn to for support and advice.
>
> He told me very early in my political career that I would one day become the Minister for Education. I didn't believe him at the time but it did arouse an ambition which was eventually to bear fruit.

In conclusion, Mr Speaker says:

> Eric is a person who had a major influence on my life and my career and I will sadly miss him. I know that he has experienced tragedy in his own life but he has always bore adverse circumstances with grace and a stoicism which revealed his innate inner strength.
>
> To Jo and his family, my sincere condolences and best wishes. He will be sorely missed and always much loved.

I also lay on the table the eulogy given by Eric's almost lifelong friend, a friend of 35 years, Roy Medich. I am sorry I did not acknowledge Roy earlier. I am short-sighted, and when I was looking at the public gallery and trying to identify the people there I saw Michael Ross and Chris Church, and I now see you, Roy. Pam Allen, the honourable member for Wentworthville, directed my attention to you in the gallery. All three—two staff members and a great friend—were wonderful supporters of Eric.

I acknowledge the members who have spoken in this debate. The honourable member for Lachlan, Ian Armstrong, highlighted from the other side the great respect in which Eric was held by all members of Parliament, something rarely achieved in this Parliament. Joe Tripodi, the Minister for Energy, pointed out that he had not joined the party until after Eric became a member of Parliament. I acknowledge also the contribution of the Leader of The Nationals, Andrew Stoner.

From the speech of Pam Allan, the honourable member for Wentworthville, everyone would draw the conclusion that she greatly admired Eric and his contribution to education. Pam is also a champion of public education, so one can see how that mix worked extremely well. Richard Amery, the honourable member for Mt Druitt, grew up in that area and he shared his experiences of what the area was like and why Eric was so passionate about improving services in Western Sydney. It was the leadership of Eric and other Western Sydney members that changed the whole face of Western Sydney and turned it into the engine room it now is for Sydney, New South Wales and Australia.

Alan Ashton, the honourable member for East Hills, being a delegate and activist in the Teachers Federation and in public education, and having worked with former Minister for Education Rodney Cavalier, had personal contact with Eric and had enormous admiration for him as well. It is good to see that Rob Oakshott, the honourable member for Port Macquarie, acknowledged Eric's contribution to the racing industry in Port Macquarie. There is no doubt that Eric's lobbying and his passion for horses and Jo's passion for horses and racing in some way contributed to the success of Eric's representations to the Government. May Eric's soul rest in peace.

Members and officers of the House stood in their places.

Motion agreed to.

PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT BILL

Message received from the Legislative Council returning the bill with amendments.

Consideration of amendments deferred.

CRIMES (APPEAL AND REVIEW) AMENDMENT (DOUBLE JEOPARDY) BILL

CRIMES (APPEAL AND REVIEW) AMENDMENT (DNA REVIEW PANEL) BILL

Second Reading

Debate resumed from 19 September 2006

Mr CHRIS HARTCHER (Gosford) [11.08 a.m.]: The Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill and the Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill are cognate bills. The first amends the historic law of double jeopardy in this State by allowing for a retrial in cases where new and compelling evidence may suggest that the alleged offender is guilty of an offence of which he or she has been acquitted. The second relates to the establishment of the Innocence Panel and the DNA Review Panel, which will allow the assessment by the Court of Criminal Appeal upon the recommendation by the Innocence Panel of new evidence or a reassessment of old evidence which might suggest that a person who has been found guilty is innocent.

The two walk together. One allows people who have been found innocent but may be guilty to be brought back before the court in certain circumstances. The other allows people who have been found guilty but may be innocent to be brought back before the court. The principle of consistency applies. If innocent people are to have a guilty conviction against them overturned—and all members of the community would support that—why should guilty people not have a finding of innocence against them overturned if new evidence shows they are guilty? The innocent should not be incarcerated, but neither should the guilty go free.

The rule of double jeopardy is an ancient and historic one at common law. While its origins, like so much of the common law, are lost in time, it was of great significance in the struggles between the Crown and the community. The Crown would bring an allegation of treason against a person, lose the case, bring a further

allegation of treason against the person and continue to do so until it found a jury that was prepared to bring in a verdict of conviction. So double jeopardy was an important principle of human rights that there should be a finality in criminal law proceedings and that the Crown should not be permitted to continue to bring forward allegations that were essentially based upon the same evidence as in previous allegations.

So important was the rule of double jeopardy regarded that it was set out as part of the Fifth Amendment in the United States of America Bill of Rights. As we see on television shows, the Fifth Amendment is cited to protect a person against self-incrimination. But the Fifth Amendment goes further and relates to other matters, such as the principle that allegations should be made against a person in open court and no-one should be tried twice for the same offence. Australia does not have an equivalent to the American Fifth Amendment. Accordingly, it is open to the Parliament to change the criminal law when it considers circumstances are appropriate. It would not be possible in the United States to introduce this legislation.

I will refer to the New South Wales Law Society's history of this legislation. In 2003 there was a consultation draft on the Criminal Appeal Amendment (Double Jeopardy) Bill 2003. Then the Standing Committee of Attorneys-General [SCAG] referred double jeopardy to the Model Criminal Code Officers Committee. In November 2003 the Model Criminal Code Officers Committee released a discussion paper on double jeopardy. In March 2004 the recommendations of the committee were considered by the Standing Committee of Attorneys-General. In July 2006 the Council of Australian Governments [COAG] agreed to progress double jeopardy law reform. The COAG senior officials working group was to review double jeopardy laws and report to COAG and SCAG by the end of 2006.

In 2002, prior to the 2003 State election, Premier Carr was quoted extensively in the Sunday newspapers saying that the New South Wales Government would change the law on double jeopardy. In 2003, following the re-election of the Carr Government, the Criminal Appeal Amendment (Double Jeopardy) Bill 2003 was introduced but not proceeded with. The 2003 bill dealt only with cases of murder and allowed for retrial in specified circumstances of a person accused of murder but found innocent. This legislation is far more extensive than the 2003 bill and is linked to the establishment of the DNA Review Panel.

Both the New South Wales Bar Association and the Law Society have indicated to me, the Coalition and the Government their misgivings about this legislation. While I do not propose to put all of their misgivings on record, it is appropriate that those two respected bodies are acknowledged and their views put before the Parliament so that members are aware of them. They are disinterested bodies representing the legal fraternity in this State, the bar and solicitors, and their views are entitled to appropriate consideration and respect. The Coalition has long believed that the law on double jeopardy needed to be restructured, especially in light of DNA evidence. Technology constantly changes, and it is important that the law keep abreast of technological change. If technology now gives us a greater opportunity to revisit crime scenes, surely it is appropriate for a society whose beliefs are based upon a system of justice to do so.

It is not necessarily appropriate that we maintain the customs of the past simply because they are the customs of the past, although we should acknowledge that they grew up for good and valid reasons at the time. All members would be familiar with the popular *CSI: Crime Scene Investigation* television series. Members would also be familiar with the role that DNA evidence now plays in assessing guilt or innocence in criminal trials. As with the introduction of fingerprinting in the twentieth century, in the twenty-first century DNA evidence has provided enormous assistance in ascertaining guilt or innocence. It should never be assumed that these new technological advances only help the prosecution. They are also of great assistance to the defence. In the United States, as is well attested, a number of prisoners on death row have been found to be not guilty as a result of reassessment of the evidence against them through DNA processes. They have been released from gaol, pardoned and compensated. That would not happen without the availability of DNA testing.

These two bills are importantly linked. It is important that the community understand the spirit in which they are presented to the Parliament and the long process of gestation and consideration through the Standing Committee of Attorneys-General, the Model Criminal Code Officers Committee, and the release in 2003 of the exposure draft. The Coalition does not oppose the passage of the bills. There are provisions in the legislation that some may argue could be changed, but that is probably true of all legislation. The view has been put to us that the reform of the double jeopardy law should not be limited, as it is in this bill, to offences carrying a penalty of life imprisonment but should be widened to include offences that carry a penalty of 25 years' imprisonment or more. That would catch sexual assaults. At present, the only sexual assault offences caught by this legislation are, for example, sexual assaults committed in company, which carry a maximum penalty of life imprisonment. That is an issue for another day.

At this stage we should acknowledge that an important legislative change is now occurring to the common law, which has grown up over a long time. Although we should approach it with caution, we should also approach it consciously and deliberately. Changes to the common law are constant. It is really not appropriate for outside bodies, however respected they might be, to simply argue that because a certain aspect of the common law has been unchanged for many years it should stay unchanged forever. In my opinion this Parliament quite rightly recently amended the law on majority verdicts for juries, for example, even though that was an established principle of the common law. Over time there have been hundreds and hundreds of changes to the common law, most of them, if not all, overwhelmingly beneficial to the community.

After all, the common law was never perfect. It simply represented the established practice of law in England and in many respects it was very harsh, carrying at its peak, as we all recall, the death penalty for some 200 felony offences. For a long time it denied people the right to be represented by counsel; it denied people accused of crimes to give sworn evidence in their own defence at court—as recently as the 1880s Ned Kelly, on trial for his life, was denied the right to give sworn evidence in his own defence—and it had no appeal mechanism at all until the early twentieth century. Changes to the common law are not necessarily hostile to the good administration of justice, so it should not be considered that this change to the common law falls into the category of being hostile to the good administration of justice. Let me quote the position of the Law Society:

> The Law Society supports the retention of the Double Jeopardy Rule. To do otherwise would undermine the operation of the presumption of innocence, and the provision of finality to justice. Once a person has been brought to trial and acquitted, the person should be able to rely on that acquittal.
>
> A person accused of a crime is entitled to a sense of finality once their case has gone to trial. Acquittals should not be seen as temporary or only good until the police or prosecution comes knocking on the door again, trying out another angle for conviction.
>
> For disappointed parties to pursue what they believe is the correct outcome of criminal proceedings notwithstanding the verdict of the jury or judicial officer, is inconsistent with finality.

The Law Society makes this further point:

> **The ability to hound a person indefinitely, with the huge resources of the State pitted against the individual.**
>
> The State of NSW has heavily resourced and highly professional investigatory policing and prosecutorial services. Accordingly, the people of NSW are entitled to expect that cases will be investigated with due diligence and properly prepared, so that admissible evidence capable of supporting the charges and proving the prosecution's case beyond reasonable doubt is put before the court and jury at first instance.

The Law Society goes on to state:

> **The risk of an unfair re-trial**
>
> The Government anticipates that the opportunity to seek a re-trial will only be utilised in very few cases. As such, it will have a minimal impact on crime prevention or reduction.
>
> Nevertheless, the exceptions to the rule will be serious cases attracting significant media speculation at first instance. The Law Society is concerned that there would be little prospect of the person obtaining a fair re-trial.
>
> The issue of double jeopardy has recently been considered by the High Court which affirmed the importance of the rule and its fundamental role in protecting the rights of the accused and ensuring finality of proceedings.

The Law Society then quotes the case of *R v Carroll*, a 2002 decision of the High Court. Before saying anything about the decision in that case, I am reminded of the history of this Parliament and the fact that one of the Speakers of this Parliament, Speaker Meagher, who, I read on the Chamber wall, was Speaker from 1913 to 1917, was a solicitor who was struck off the roll. He was struck off because in a murder trial he had suppressed evidence going to the jury that would have shown that his client was guilty. Afterwards he admitted to that.

While the court had no authority to prosecute him it held that his conduct was not becoming of a solicitor and he was removed from the roll of solicitors in this State. He then went into Parliament and became Speaker. His client in that case was subsequently prosecuted for perjury because he had gone into the witness box and denied on oath that he had attempted to murder his wife. He was convicted of perjury and sentenced to imprisonment. That did not go to the High Court, but in 2002 the same facts went to the High Court in Carroll's case when the person who had been convicted of murder had sworn in evidence that he had not committed murder.

The evidence showed that he had, and he was tried for perjury, but the High Court held that the perjury was so close to the original charge of murder that he was entitled to the protection of the rule against double jeopardy, which is interesting. As I said, that was not applied in Mr Meagher's case in the early twentieth century. The High Court's decision certainly brought to a head the rule against double jeopardy. It is appropriate therefore for the Parliament to consider whether that rule is to stand or to go. The High Court quoted Blackstone *Commentaries* of 1769, which states:

> It is a fundamental rule of law that no man is to be brought into jeopardy of his life more than once for the same offence.

The High Court also quoted various other cases, including the idea that judicial decisions must be finalised. It also quoted the rather proud boast of the courts as follows:

> The decisions of the Courts must be accepted as incontrovertibly correct unless set aside or quashed on appeal... and citing Lord Halsbury in the English case of *Reichel v McGrath* (1889): "It would be a scandal to the administration of justice, if, the same question having been disposed of in one case, the litigant were to be permitted by changing the form of the proceedings to set up the same case again."

So by its decision the High Court brought this issue, perhaps unintentionally, to a head and the Parliament is now presented with this legislation. I think all honourable members would have received the Law Society's briefing paper, so I will read no more from it. The New South Wales Bar Association, which also objects to the proposal, states:

> The Bar Association opposes the New South Wales Government's legislation to overturn the rule against double jeopardy.
>
> The traditional rule serves an important policy of finality in litigation. It is desirable that a verdict after trial should, subject to the usual avenues of appeal, be final. This ensures that the participants in the trial are able to get on with their lives, without the constant burden that exists if there is a possibility that the issues in the trial will be relitigated.

The Bar Association then goes on to make much the same points that were made by the Law Society, but it comments specifically on the legislation as follows:

> Insofar as the legislation now before the Parliament introduces appeals on questions of law following acquittals (Division 3) the Bar Association considers that the circumstances in which such appeals might be allowed should be far more closely constrained than the Bill permits. In particular:
>
> - There is no provision that defines the relationship between the alleged legal error and the outcome of the trial. In order for the appeal to succeed, it should be a requirement that the identified error of law brought about the acquittal.
>
> - The provision gives the Attorney General or the Director of Public Prosecutions a general right of appeal. This should be replaced with the requirement for the leave of the Court of Criminal Appeal. For example, the Crown may have itself brought about, or acquiesced in, the error of law and, in those circumstances, should not be permitted to rely upon the error.

The Bar Association concludes with this fairly significant warning:

> Furthermore, regardless of safeguards, the proposal to change the principle of double jeopardy is in conflict with Article 14 of the International Covenant on Civil and Political Rights.

Article 14 subparagraph (7) of the covenant reads:

> No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

So the Bar Association makes some telling points. It also makes some points about appeals against acquittals—an area about which I will not say much. I have always believed—and I think many people in the community have believed—that just as the defence has the right to appeal against an erroneous direction given to the jury by a judge, surely the Crown should have the same right. This bill goes partly towards rectifying that error. Justice must be equal. The principle is that the Crown has the burden of proving its case beyond reasonable doubt, and no-one questions that. However, that does not change the fact that the law should ensure equality in the sense that the victims of crime feel that the law protects them just as due process protects the accused.

If the accused can "get away with" a crime even though new evidence suggests that he or she may be guilty or because of a mistake on a matter of law made by the judge in allowing the case to go to the jury or in his directions to the jury, the victims of the crime have every right to feel aggrieved that the process has let them down, and they do feel aggrieved. One of the ongoing concerns for victims of crime in our society is that they

feel let down by the process. They feel that it is too technical and that it favours the accused more than it favours overall justice. After all, justice ensures that the victim has his or her rights respected just as the accused has his or her rights respected. The Coalition has no problem with the limited right of appeal that is granted to the Crown by this legislation in cases of questions of law following acquittals as set out in part 3.

I am sure that the recommendations of the Law Society and the Bar Association were taken into account by the Council of Australian Governments, the Standing Committee of Attorneys-General and the Attorney General in the preparation of this legislation. However, with the greatest respect, the Coalition disagrees with the two esteemed bodies and, therefore, believes that it is appropriate not to oppose legislation of this nature. The Bar Association has raised a number of points about the Innocence Panel. I do not think anyone in the community would disagree with the principle behind the panel. As I said earlier, it allows the assessment of evidence that goes to show that a person is innocent even though he or she has been found guilty. All of us would adhere to the principle that it is wrong to incarcerate any innocent person and any such person should certainly not remain incarcerated if there is doubt as to guilt when evidence is available that would overcome that doubt. The Bar Association states:

> The current legislation falls short of that in the following ways:
>
> 1. The duty for police to retain biological samples that might permit DNA testing, and the Innocence Panel itself, only have a life of seven to ten years under the sunset clause in the legislation: sections 96 and 97. This means that samples may be intentionally destroyed by police after that time and no-one will be able to make claims to the panel. There is no basis to believe that the panel will not be needed after that and every expectation that it will be.

That raises a valid point. I am not sure of the rationale for the sunset clause, and the Attorney General may wish to address that issue in reply. The Bar Association also states:

> 2. The duty to retain biological evidence within 7 years under section 96(3) (b) is completely neutralised if the victim asks for the material to be returned "to minimise inconvenience to the victim". Under this provision vital evidence could be returned to victims and destroyed by them without any recourse by any other party.
>
> 3. There is nothing in the legislation requiring the police to give an account or report of what biological material has been destroyed by them since the need for a DNA review panel was first announced by the Government six years ago in 2000. This is especially important as section 93 provides that the panel must refuse to deal with an application if the relevant biological material cannot be found.
>
> 4. The panel as presently constituted is a 'toothless tiger'. It really has no powers to investigate whether biological material exists. It is totally reliant on what is said to it by the Police Department. The spirit of the Finlay Report—

That is the September 2003 Mervyn Finlay report—

> was that it should be independent of the Police Department. The power to 'arrange searches' for biological material under section 92 falls a long way short of a power to compel such searches to occur. There is little chance that mishandling of samples by the police would ever be exposed under this legislation. It was such mishandling in the past that particularly concerned the authors of the Finlay Report.
>
> 5. The considerations that the Panel must take into account under section 91 in exercising its functions are grossly inadequate. The legislation does not even mention the most important consideration of all—the need to ensure that innocent people are released from jail as soon as possible.

Although the legislation does not do that, if the evidence is overwhelming surely the Crown or the Governor could be advised to allow the release of the prisoner pending the assessment. I would imagine that is open to the Crown. The Bar Association continues:

> 6. The criteria for eligibility to apply to the panel are irrationally restrictive. Convictions after 19 September are excluded—as if somehow mistakes about DNA are not going to be made by criminal investigators in the future. Only persons convicted of sentences of imprisonment for periods of more than 20 years are the people eligible. The best and full DNA testing has only been around since 1998, so mistakes can possibly have been made for matters only eight years old. How is that fair?

That is a relevant and fair consideration and the Attorney General must address it. These are important matters. At the request of the Government, the Parliament is undertaking an investigation of extensive and major changes to the double jeopardy rule and the right of appeal against acquittals in certain cases influenced by judicial advice or committal. We are also investigating the establishment of the DNA Review Panel. These matters clearly need to be carefully assessed. One would hope and expect that they have been. Given that the esteemed and respected Bar Association has raised these questions, surely they should be answered. I thank the House for its indulgence and place on record that the Coalition does not oppose this legislation.

Mr BOB DEBUS (Blue Mountains—Attorney General, Minister for the Environment, and Minister for the Arts) [11.38 a.m.]: The double jeopardy principle is an 800-year-old rule inherited as part of the common law system. It means that a person cannot be retried for the same offence after an acquittal, regardless of the circumstances of the acquittal, and regardless of the emergence of fresh evidence, such as a confession by the acquitted person or the availability of new types of forensic evidence. The Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill does not seek to do away with the double jeopardy rule in its entirety, but simply to make limited exceptions to it, exceptions that recognise that in the most serious of cases our criminal justice system is brought into disrepute when an individual can rely on a previous acquittal when there is fresh and compelling evidence that he or she may have committed the offence.

An important corollary of double jeopardy reform is the proposal to establish a DNA Review Panel, which is provided for in the cognate bill. If DNA analysis is to be used to retry an acquitted person, it is important that it be made equally available to convicted persons seeking to prove their innocence. The Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill has taken into account a number of international precedents. In September 2003 the Government released the Criminal Appeal Amendment (Double Jeopardy) Bill 2003 for public consultation. That bill was modelled on the United Kingdom [UK] legislation, the Criminal Justice Bill 2002. Its provisions are based on recommendations of the United Kingdom Law Commission Report entitled, "Double Jeopardy and Prosecution Appeals", published in 2001and the review of the criminal courts of England and Wales by Justice Auld, also published in 2001, which were themselves the result of an extensive consultative process.

In November 2003 the United Kingdom enacted part 10 of the Criminal Justice Act 2003, the UK Act, which overturned the double jeopardy rule in cases of new and compelling evidence. Acting Justice Jane Matthews, of the Supreme Court of New South Wales, was then asked to examine the draft bill and the submissions received in the consultation process and to provide an advice, with particular emphasis on the adequacy of the safeguards in the bill. In canvassing the historical background of double jeopardy in her report, Jane Matthews commented:

> The issue is a complex one. The double jeopardy rule protects fundamentally important individual liberties. It is an internationally recognised human right, enshrined in the International Covenant on Civil and Political Rights (ICCPR). On the other hand, one can readily envisage situations in which rigid adherence to the double jeopardy rule could itself bring the law into disrepute. This has already occurred in some jurisdictions, although not recently in New South Wales. Nevertheless, the values which the double jeopardy rule serves are so fundamental to the fairness of our criminal justice system that any exceptions to the rule must be framed with great precision and must contain appropriate safeguards. It is for this reason that the Attorney-General has asked me to advise as to the adequacy of the safeguards proposed under the draft bill.

The various measures, safeguards and tests built into the current bill will ensure that the quashing of an acquittal will occur only in extremely limited and compelling cases and will guard against these powers being used recklessly or capriciously. It is those safeguards that answer the arguments made by, for instance, the Law Society of New South Wales and the New South Wales Bar Association. In summary, the key safeguards are: the restriction to very serious offences; the requirement for fresh and compelling evidence; the interests of justice test; only one application for a retrial can be made, and only one retrial held; the Director of Public Prosecutions [DPP] must approve re-investigations; the potential for restrictions on publication; and a statutory review after five years. I will deal with some of those matters in more detail.

Dealing with the restriction to very serious offences, the bill provides that an application for a retrial on the basis of fresh and compelling evidence or a tainted acquittal can be made only with respect to an offence that carries a maximum penalty of life imprisonment. These offences include murder, gang rape and the supply of large commercial quantities of drugs. It should be noted that the "fresh and compelling evidence" limb does not include manslaughter. The tainted acquittals exception is to be available for any offence punishable by imprisonment for 15 years or more. The bill defines evidence as "fresh" if it was not adduced in the proceedings in which the person was acquitted and it could not have been adduced in those proceedings with the exercise of reasonable diligence.

The bill defines evidence as "compelling" if it is reliable and substantial and, in the context of the issues in dispute in the proceedings in which the person was acquitted, it is highly probative of the case against the acquitted person. These provisions are similar to their counterparts in the UK Act. I emphasise again that these safeguards are to prevent prosecutors or police from using these exceptional powers in a reckless, capricious or speculative fashion. The definition of "fresh" evidence is designed to ensure that tactical prosecutorial decisions do not give rise to the opportunity for a retrial. For example, a decision not to call a particular witness to give evidence should not be the basis upon which a retrial is ordered.

I turn to the interests of justice test. Proposed section 104 lists the criteria a court must consider in determining whether it is in the interests of justice to order a retrial. The criteria are whether existing circumstances make a fair trial unlikely, the length of time since the alleged offence, and whether any police officer or prosecutor has failed to act with reasonable diligence or expedition in connection with a retrial of the acquitted person. There is a positive requirement that a fair trial is likely, as there should not be an onus on the acquitted person to show that a fair trial is unlikely. Proposed section 105 provides that only one application for a retrial can be made, and only one retrial held. In combination with the other safeguards surrounding this legislative system, it is clear that only the most serious and convincing cases will be proceeded with.

Proposed section 109 prohibits a police officer from carrying out or authorising a police investigation in relation to a possible retrial of an acquitted person unless the DPP has advised that in his or her opinion the acquittal would not be a bar to the trial, or has given written consent to the investigation. The DPP may not give that consent unless satisfied that there is or will be sufficient new evidence to warrant the investigation and that it is in the public interest for the investigation to proceed. In this context, police investigations are defined as arrest, questioning or search of the acquitted person—or the issue of a warrant for his or her arrest—or any forensic procedure conducted on the person, or search or seizure of their premises or property. Other investigative steps may be taken without the DPP's consent, such as interviewing witnesses, obtaining warrants for the use of listening devices or telecommunications interceptions, and other evidence gathering activities. The proposal that the DPP has to advise that it is in his or her opinion that an acquittal would not be a bar to the trial or has given written consent to the investigation offers a most powerful protection against the improper use of the proposals that we are advancing.

Proposed section 111 enables the Court of Criminal Appeal [CCA] to prohibit the publication of any matter that would give rise to a substantial risk of prejudice to the administration of justice in a retrial. The court may prohibit publication of any matter that identifies that an acquitted person is the subject of a new police investigation, that an acquitted person is the subject of an application for a retrial or that the acquitted accused is the subject of an order for a retrial. Once a retrial is under way the normal powers of a court will apply, allowing further orders to prevent substantial risk of prejudice. Again, that is a very important safeguard. It would be very difficult for a juror, after hearing that the CCA has ordered a retrial because there is fresh and compelling evidence against an accused person, to continue to presume that person is innocent until proven guilty. Even the authorisation of a reinvestigation could attract significant media attention. Given the novel nature of these reforms and uncertainty as to how frequently they will be implemented, it is appropriate that provision be made for a statutory review by the Attorney General five years after their commencement.

I turn briefly to the Innocence Panel. The Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill seeks to provide a scheme to allow a panel to consider applications from people who have been imprisoned in relation to offences that carry a maximum penalty of 20 years or more. The panel will arrange further DNA testing where a convicted person's claim of innocence may be affected by DNA information. New South Wales has an excellent criminal justice system, but there always remains the small risk that innocent people may be wrongfully convicted—and history bears out this proposition. Here in New South Wales we had the tragic case of Ziggy Pohl, who was wrongly convicted and gaoled for life for the murder of his wife, a crime he did not commit.

In Queensland in 2001 in the case of *R v Button* a man was eventually proved innocent after the forensic review of evidence. Frank Button was convicted of rape and spent 10 months in prison before DNA testing was undertaken before his appeal. The testing included a bed sheet that had not originally been tested. That further testing revealed that biological material found on the sheet matched samples from swabs taken from the victim, both of which excluded Mr Button. In quashing Button's conviction, Acting Justice Williams of the Queensland Court of Appeal declared that the case marked a black day in the history of the administration of criminal justice. Button had served 10 months of the sentence and was then exonerated following DNA testing carried out at the insistence of his lawyers.

The developing area of forensic science has provided law enforcement agencies with one of their most powerful investigatory tools. No doubt this tool can be used to prove a person is innocent, just as readily as to prove that a person is guilty. In 2001 New South Wales was the first jurisdiction in Australia to establish an Innocence Panel, and the Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill establishes the newly named DNA Review Panel on a legislative basis. I have emphasised here the balanced approach the Government has taken in this legislation. We have attempted to ensure that the limited inroads that have been made into the double jeopardy rule are surrounded with appropriate safeguards that will continue to ensure the finality of verdicts in the overwhelming majority of cases before our criminal courts.

Mr DAVID BARR (Manly) [11.51 a.m.]: I strongly support the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill and the modifications to the double jeopardy rules. The amendments provide that an acquitted person can be retried for an offence that carries a life sentence if the court is satisfied that there is fresh and compelling evidence against the acquitted person and that in all the circumstances it is in the interests of justice for the order to be made. The bill provides definitions of "fresh" and "compelling", and the Attorney detailed them a few minutes ago. The bill also allows for a retrial when an acquittal has been tainted, and I also support that. There is a long tradition going back centuries on the doctrine of double jeopardy, and there have been strong grounds for it over the years. However, I would argue that in recent times it has been demonstrated that these qualified changes need to be made. The Law Society, in its letter to parliamentarians, reiterated the foundations of the double jeopardy principle, which were restated in the case of Carroll. The first point in the Law Society's letter states:

> It is a fundamental rule of law that no man is to be brought into jeopardy of this life, more than once, for the same offence (Blackstone, *Commentaries* (1769)).

That relates back to an era when capital punishment was fairly rampant. We no longer have capital punishment. In the past there were circumstances in which people could be at risk of losing their lives due to retrials. That is not the case at the moment. The second point states:

> Policy considerations for the rule against double jeopardy go to the heart of the administration of justice and the retention of public confidence in the justice system …

People have confidence in the justice system if they can see that justice is, in fact, done. When it can be demonstrated that someone has got off a serious criminal rap, people do not have confidence in the justice system. We are talking about the serious crimes of murder, aggravated sexual assault in company—that is, gang rapes—and major drug offences. Murder is final for the victims, their families and their loved ones. Once a person has been to trial and been acquitted, if there is evidence that was not adduced at trial or evidence is subsequently forthcoming that clearly indicates that the person was guilty, then finality must be seen in terms of the application of justice in those circumstances. If that does not happen, the average person in the street would consider that justice has not been done. The third point states:

> The main rationale for the rule is that it protects against the unwarranted harassment of the accused by multiple prosecutions …

The bill provides for only one further trial. However, once again the issue is justice and the administration of justice. As long as there are provisions in the legislation—and I believe there are—that will not allow for unwarranted harassment, that is not an issue. The fourth point states:

> Judicial considerations need to be final, binding and conclusive if the determinations of the Courts are to retain public confidence …

Finality is not an end in itself; justice is. People are satisfied that there is finality only if they believe that justice has, in fact, been done. The issue is not administrative convenience; it is whether justice is being carried out. When there is enough evidence to indicate that a person should be brought back before the courts, I believe the community, as well as most members of Parliament, would consider that that should be done. Indeed, I strongly believe that that should be done. Another point states:

> The decisions of the Courts must be accepted as incontrovertibly correct unless set aside or quashed on appeal …

That relates to some kind of doctrine of legal infallibility. The court system is not infallible; mistakes can be made, and people can get off although they should not. There needs to be recourse in those circumstances when cases involve serious criminal offences. Another point was that the double jeopardy principle conserves judicial resources. The administration of justice is not about conserving judicial resources; it is about an outcome in which justice is dispensed, which is the important principle. Although the Law Society opposes the legislation, it states that the only offence that should be subject to the legislation is murder, so it has a qualified position on that.

I would argue that victims of aggravated sexual assault in company—gang rapes—live with that for the rest of their lives, as do their families and loved ones. If someone has been acquitted and is walking the streets and subsequent evidence comes before the Director of Public Prosecutions that that person should be retried for the original offence, once again I think any reasonably people would believe that that should happen. I am not talking about what shock jocks on the radio and whoever think; I am talking about a reasonable, considered view on the matter.

The Bar Association accepts that one exception to the general principle may be made when an acquittal is obtained by fraud, perjury or a comparable perversion of the course of justice, for which the double jeopardy bill provides. So it is hedging a bit. Both the Law Society and the Bar Association are of the view that there could be some qualified exceptions to the double jeopardy principle. The legislation goes further than they would like, but it is not unbalanced. Indeed, it is proportionate to and addresses the issues. In the light of technological changes, forensic science, DNA and so on, there should be an opportunity to retry a person if it can be clearly demonstrated that that person perpetrated the offence. The matter of finality should not be an issue. The issue is justice for the victims and justice so far as general society is concerned. I think this is important legislation.

Mr PAUL PEARCE (Coogee) [12.00 noon]: I am pleased to address the House on the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2006 and the cognate Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill 2006. In doing so I wish to bring to the attention of the House the nature of the principles of law being debated, and likely to be changed as a consequence of the passage of this legislation. The double jeopardy rule is of considerable antiquity in English common law. *Blackstone's Commentaries on the Laws of England* describes it in the following terms:

> The plea is grounded on this universal maxim of the common law of England, that no man is to be brought into jeopardy of his life or limb more than once for the same offence.

The arguments in favour of the rule are well known and have been outlined by previous speakers, and I shall not reiterate them here. I would, however, bring to the attention of the House the fact that the principle of finality is also reflected in article 14 (7) of the International Convention on Civil and Political Rights, to which Australia is a signatory. Contrary to the views of some commentators, the rule is very narrow in its application. I refer honourable members to the 1997 English divisional case of the *Director of Public Prosecutions v Khan* and the House of Lords 2000 decision in *R v Z*, a rape case. The pressure for reform of the rule in Britain arose from several cases, the most notorious of which was the case concerning the murder of Stephen Lawrence by a gang of racist youths.

I am sure the facts are known to a number of honourable members, but in essence the Director of Public Prosecutions [DPP] declined to prosecute, due to a lack of adequate evidence arising from a botched police investigation coloured by strong undertones of institutional racism within the London metropolitan police force. A consequent private prosecution by relatives of Stephen Lawrence failed because of inadequacies of evidence. Much of the driver for reform of the law in Australia arose from the Queensland case of *R v Carroll*. The matter effectively came to a head with the High Court decision that the rule applied when Carroll was subsequently charged with perjury, having had his previous conviction for murder quashed by the Queensland Court of Appeal. The prosecution essentially relied upon the evidence in the earlier murder trial. It should be noted in reference to this case that, horrific as the facts are, on two occasions the Queensland Court of Appeal was unable to conclude that the guilty verdicts in the trials for murder, and subsequently perjury, were reasonable. The evidence led by the prosecution was not sufficiently reliable to sustain guilty verdicts.

In simple terms, even if the double jeopardy rule had not existed, the evidence, based as it was on an alleged gaol-house confession and opinion evidence, would not have been admissible. In other words, the defendant would still have walked free. I referred earlier to my view that the existing rule is itself narrow. Whilst the High Court of Australia took the view in the Carroll case that relying on evidence previously led in the murder case to support the perjury conviction transgressed the existing rule, this interpretation of the rule was not upheld in the English case concerning one Billy Dunlop. In that case the Crown Prosecution Service decided to try him for perjury on the grounds that he had lied on oath during the murder trials. He admitted to two counts of perjury and was sentenced by the Teesside Crown Court.

That brings me to these bills. In modifying a procedural rule that has protected the rights of the accused person from continued harassment by the State after acquittal for many centuries and ensured a finality to proceedings, it is essential that such legislation should ensure that a retrial is permitted only where there is fresh and compelling evidence of guilt. Proposed section 100 of the principal bill purports to do that. The words "fresh and compelling evidence" are defined in proposed section 102. A retrial is also permitted under proposed section l01 where there is a tainted acquittal. This concept is similarly defined in section l03. The matters for consideration under the concept of a retrial being in the interests of justice are dealt with in proposed section l04.

As an aside, based on the wording of proposed section 104 (3) (b), it is probably a fair assumption that the alleged assailants of Stephen Lawrence could not have been retried under the provisions in the bill. I make

no secret of the significant qualms I have with the potential impact of this legislation, and the cumulative effective of other changes introduced in recent years, on the rights of the accused and the presumption of innocence that requires the prosecution to prove guilt beyond a reasonable doubt. I can only hope that the procedural protections rightly inserted into legislation and outlined by the Attorney General will ensure that there is not an abuse of process. The greatest risk I see developing with the modification of the rule against double jeopardy is the possibility of vigilante justice being encouraged by some of the more irresponsible elements of the media and, regrettably, some elements of the Opposition in this place. The risk is compounded by the retrospective nature of the proposed changes.

We have all witnessed the tabloid press "going feral" when a person they have concluded is guilty of an offence is acquitted. Similarly, we have all heard tales of police officers who are convinced that the defendant who was acquitted was actually guilty. These types of emotive responses to the judicial process, if they subsequently translate into pressure for a retrial, as would be possible should this bill become law, run the risk of undermining the very basis of the protections afforded a person prosecuted under our criminal law. Whilst the role of the more rabid elements of the tabloid media is well understood and treated with the appropriate level of contempt, it is the role of the Opposition that is arguably of greater concern.

In order for fairness to the accused person to exist in light of the changes introduced by this bill and the earlier bill permitting majority verdicts, it is essential that the concept of separation of powers be acknowledged and respected. While it is true that separation of powers as a constitutional concept does not in any pure sense apply within a Westminster system, recognising as it does parliamentary supremacy, the cumulative impact on the common law rights of the accused of the legislative changes witnessed over the last few years makes it critical that the principle of the independence of the prosecutorial agencies and the judiciary be absolutely respected in this place. The performance of the Leader of the Opposition in a number of instances does not instil confidence that he understands this basic principle.

Mr Brad Hazzard: Point of order: Clearly the Minister for Police has behaved like an absolute trashy human being in the last few weeks, but—

Madam ACTING-SPEAKER (Ms Marie Andrews): Order! There is no point of order.

[*Interruption*]

Madam ACTING-SPEAKER (Ms Marie Andrews): Order! There is no point of order. The honourable member for Coogee is addressing the bill.

Mr PAUL PEARCE: Getting on the phone to a senior person in the office of the DPP and, as would be a reasonable interpretation of the events, in effect putting pressure on him to explain why a particular decision not to prosecute was taken in a particular case, with a strong implication that the case should be prosecuted, is highly inappropriate.

Mr Brad Hazzard: Point of order: It also has to be relevant to the bills before the House and he is not speaking on anything to do with them.

Madam ACTING-SPEAKER (Ms Marie Andrews): Order! There is no point of order. A degree of flexibility is allowed in these debates. The honourable member for Wakehurst will resume his seat. The honourable member for Coogee may continue.

Mr PAUL PEARCE: Similarly, statements of the nature that 200 Middle Eastern thugs should be rounded up and charged with anything, does not display a reasoned understanding of the respective roles of the Legislature, the police and the judiciary.

Mr Brad Hazzard: Point of order: I am looking through the overview and reading the objects of the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill. As I read through the objects of the bill, nowhere can I see any reference to any of the matters that the member is addressing. Madam Acting-Speaker, for you to deny that there is a requirement under the standing orders that members speak to the bill—

Madam ACTING-SPEAKER (Ms Marie Andrews): Order! I do not accept that point of order. The honourable member for Coogee may continue. He is giving examples.

Mr Brad Hazzard: You have been in the Aquilina training camp, Madam Acting-Speaker, with no points of order of the Opposition upheld. We will not worry about the standing orders. Members opposite can just rabbit on in the same way as they have for weeks.

Madam ACTING-SPEAKER (Ms Marie Andrews): Order! I will not debate the issue. I have given my ruling. The honourable member for Wakehurst will resume his seat. The honourable member for Coogee may proceed.

Mr PAUL PEARCE: For the rights of the accused to be respected and for the retention of fairness in processes of the criminal law, in light of the changes proposed in this bill and previous legislation, it is essential that all members recognise that they are lawmakers, not police, prosecutor, judge and jury. Leaping for the cheap tabloid headline, as the Leader of the Opposition is wont to do, will lead to significant undermining of public trust in the fairness of our criminal law. I will now briefly address some of the issues of the cognate bill before the House—the bill establishing a DNA Review Panel. From the outset I indicate my support for the principles in this bill, although I regret that its application will be only retrospective. DNA technology is a tool that has significant potential in the area of criminal justice. However, all too often it is viewed as a magic bullet to determine guilt or innocence. In actuality it can often be relied upon to establish innocence, but its role in establishing guilt is less definite.

In many cases DNA can establish that the accused—or, as per the intent of this legislation, the convicted—person was innocent of the crime. However, its presence at the scene of a crime or on the victim is only one piece of evidence and the defence may challenge its probative value. Its role could best be described as possibly tipping the balance away from or towards reasonable doubt. The role of the DNA is recognised by the wording of proposed section 94 (1) of the cognate bill. I note that proposed section 97 places a sunset provision on the operation of the panel. This is the inevitable consequence of the retrospective operation of the bill. I particularly commend the Government for introducing subsections (1) and (2) of proposed section 96, which place an obligation on the police and other State officers to retain biological material, with a serious criminal sanction under proposed section 96 (5). But for the lack of prospective elements in the cognate bill, it could, in my opinion, go a long way towards redressing the imbalance in favour of the prosecution as a result of the cumulative effect of changes in the criminal law process I have referred to.

In conclusion, I reiterate that the bill that modifies the rule against double jeopardy has the potential to adversely impact on the rights of the accused. However, I accept the legitimacy of the argument advanced by the Premier and the Attorney General in support of the legislation and the genuine intent to ensure that it contains adequate protections of the rights of the accused. The effects of the proposed changes and the earlier legislation to establish majority verdicts will need to be monitored to ensure that in seeking to address genuine matters of public concern Parliament does not inadvertently undermine the principle of innocent until proven guilty and the requirement that the prosecution must prove guilt beyond a reasonable doubt. I trust we are not lowering the bar too far to gain a conviction. A key factor in this will be for the Opposition to show a reasonable level of respect for the process of the administration of justice in this State and recognition that the role of the legislator is not that of prosecutor, judge and jury.

Mr MALCOLM KERR (Cronulla) [12.11 p.m.]: This is important legislation. All honourable members have acknowledged that underlying public policy has made the rule against double jeopardy desirable, particularly having regard to past events and the role of the Executive. The protection provided that if a person were acquitted after a shoddy investigation, the Executive would get a second bite of the cherry. When the Attorney General quoted from Acting Justice Jane Mathews he acknowledged the international implications of the bills and civil liberty implications. When the forces of the State are ranged against a citizen, it is important for some finality when an impartial tribunal finds in favour of the protection of that citizen's rights. That was recognised by Acting Justice Jane Mathews and by all speakers here. Advances in DNA and science have meant that the acquittal of a person who is guilty also represents a miscarriage of justice. However, these provisions should be used only in relation to fresh and compelling evidence.

Having regard to the importance of this legislation and its potential impact on the civil rights of citizens, the House should have been presented with the information necessary to make a reasoned determination on whether this is good legislation. The Premier introduced these bills and I presume he will exercise his right of reply, because the Attorney General spoke during the debate. Honourable members will be well aware of the valuable work being done by the Legislation Review Committee and I refer honourable members to the summary prepared by that committee in relation to these bills.

Mr Russell Turner: It is a very good summary.

Mr MALCOLM KERR: The honourable member for Orange says it is very good, and he is quite right. That committee, which represents both the Opposition and the Government, raised a number of concerns. I am not going to take up the time of the House by reading all its contents but I encourage honourable members to read the summary and recommendations, which were unanimous. I will refer only to recommendations 40 and 41, which state:

> The Committee considers that the conduct of the prosecution since the alleged offence, including whether or not the defendant had been put to trial previously, is relevant to the CCA consideration of what the "interests of justice require" in a particular case.
>
> The Committee has written to the Premier for advice as to why the conduct of the prosecution has not been included as a matter for consideration by the CCA in determining the interests of justice.

This House is entitled to an answer from the Premier, and I understand a letter was sent on 26 September. It is a great pity that the Legislation Review Committee did not have more time to compile its report on this legislation and that further time was not granted for the Premier to respond to the legitimate concerns of both Opposition and Government members in relation to what is a very significant piece of legislation. We look forward to hearing from the Premier in reply because he certainly should reply to the information sought by the Legislation Review Committee.

The Attorney General said that if the prosecution did not call a witness, and that witness may have given evidence that may have resulted in a guilty verdict, that will not be a reason to avoid the double jeopardy doctrine. But we still do not have a complete answer to the matter raised by the committee; nor do we have answers to the other matters. The subject matter of these bills has been the subject of debate in the United Kingdom, and the Attorney General referred to that debate. Nevertheless, the Government has an obligation to the people of New South Wales to meet all legitimate requests for information, particularly when members from both sides of the House have made such requests. I call upon the Premier to answer the questions raised about this legislation.

Mr STEVEN CHAYTOR (Macquarie Fields) [12.15 p.m.]: The whole point of the criminal justice system is to bring criminals to justice. I support these bills and start my comments by stating that if a legal system is to remain relevant and uphold the expectations of society it is imperative that it maintain the respect, order and acceptance of society. I know it is the case that my electorate believes that the centuries-old rule of double jeopardy should be overturned in the circumstances outlined in this legislation. It is in accordance with the expectations in my electorate that a person should be re-tried for an indictable offence when there is new evidence or new witnesses.

The legal system should be the servant, not the master, of society. A good legal system evolves to accommodate shifts in contemporary society. The bills rightly evidence the role of this Parliament in ensuring that the New South Wales legal system is responsive to community expectations in this century by reviewing century-old principles. New South Wales inherited centuries-old common law from the United Kingdom. We should not be timid in accepting contemporary reforms to that law. I note that the United Kingdom has introduced similar legislation to these bills. We need to take what is good not only from the past but also from the present. Many on my side of politics respect the role of the Mason High Court in adapting contemporary community standards in the interpretation of our century-old constitution. It is for that reason I endorse the 2002 comments by Sir Anthony Mason in light of the High Court's decision in *Regina v Carroll:*

> The interests of justice call for correct enforcement of criminal law against those who have committed offences. In this respect, technological advances and DNA evidence may now provide stronger evidence of a defender's guilt. There is also the spectre of public disquiet, even outrage, when someone is acquitted of the most serious crime and new evidence, such as a confession, points strongly to guilt. These cases undermine public confidence in the administration of justice—and may do so in a damaging way.

The bills go some way to restoring public confidence in the administration of justice. The law is brought into disrepute by the knowledge that someone who is manifestly guilty can evade conviction. A fundamental role of law is to avoid the miscarriage of justice, not just to the defendant but also to the victim and the community when an offender is wrongly acquitted. Much commentary has been written about the double jeopardy bill in removing finality for the accused, but the victim has as much need for finality. I note the comments of the New South Wales Bar Association, which previous speakers have referred to, opposing the overturning of the rule against double jeopardy because it will remove the traditional rule of finality in litigation. As the Bar Association notes, criminal trials are intensely stressful, exhaustive and a very expensive experience. However,

the policy should be to make criminal trials less stressful, less exhaustive and less expensive, rather than to deny the fulfilling of community expectations by removing the double jeopardy restrictions.

Pursuant to the double jeopardy bill, a retrial will only occur following new evidence. New evidence is not something that justice should be blindfolded against. It should be encouraged, not discouraged. If there is strong evidence that was not previously available that will enhance the notions of truth and justice, then overturning the rule of double jeopardy is in the interests of the community. Modern scientific advances, particularly modern techniques of DNA analysis, now make it possible to bring forward evidence that was not available at an original trial. I appreciate that this bill overturns a legal right that has been regarded for many years by many jurisdictions as fundamental to the criminal justice system. The bill contradicts article 14 (7) of the United Nations International Covenant on Civil and Political Rights, article 50 of the Charter of Fundamental Rights of the European Union, the Fifth Amendment of the United States Constitution, section 11 (h) of the Canadian Charter of Rights and Freedoms and section 26 (2) of the New Zealand Bill of Rights Act.

In such circumstances, we should always act with caution. However, we should never be afraid to lead in the updating of our legal system. The only thing that keeps a legal system in place is its level of community acceptance. It is not the police or the Parliament that keeps a legal system in place, it is the people. It is my firm opinion that the removal of the centuries-old principle of double jeopardy is agreed to by the community at large. The Parliament should accept this change.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [12.22 p.m.]: As previous speakers have stated, The Nationals and Liberals do not oppose the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill or the Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill, which are cognate bills. The reforms on double jeopardy are confined to the more serious offences under New South Wales law—that is, murder or other offences carrying a maximum term of life imprisonment, such as aggravated sexual assault in company and major drug offences. The cognate bill, which relates to the DNA Review Panel, has come about because of technological advancements in the procurement and processing of evidence. The bill provides that when these new methods allow law enforcement to obtain new evidence or added information about existing evidence, a DNA Review Panel should be provisioned to consider such evidence.

In giving my support for these bills, I would like to reflect briefly on a situation that occurred in the township of Bowraville in my electorate on the mid North Coast. Sixteen years ago three young Aboriginal children disappeared within a few months of each other. They were 16-year-old Colleen Walker, 16-year-old Clinton Speedy and four-year-old Evelyn Greenup. The bodies of Clinton Speedy and Evelyn Greenup were located some months after their disappearance. The police established that both had been murdered. Colleen Walker's remains have never been located. Her clothing was found in a nearby river, and the clothing had been weighted down. In 1994 a local man was charged with the murder of Clinton Speedy. He was subsequently acquitted. This year the same man was charged with the murder of Evelyn Greenup. Again he was acquitted.

The families of those children who were tragically killed have been campaigning long and hard for justice. They formed a pressure group called Ngindajumi in local Aboriginal language, or translated as "truth be told". The group has had the assistance of local general practitioner Dr Vivian Tedeschi. This matter was profiled on 4 September on the ABC program *Australian Story*. It is a tragic story and the cases have never been resolved to the satisfaction of the families, the indigenous people who reside in Bowraville and the community in general. The changes to the legislation, particularly relating to double jeopardy, give some hope to those families that justice may eventually be done. In support of those people I commend the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill. The Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill, which provides that people who have been wrongly convicted of crimes can be acquitted as a result of DNA evidence, has to be a good thing for justice in this State.

Mr BARRY COLLIER (Miranda) [12.28 p.m.]: On 9 February 2003 the former Premier announced the Government's intention to overturn the double jeopardy rule in certain limited circumstances. The Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill does so in certain circumstances, but it also contains two other grounds for quashing an acquittal. One is on the basis of tainted acquittal and the other is an appeal against directed verdicts. Calls for legislative reform in Australia were prompted by the Queensland case of *R v Carroll*. Raymond Carroll was convicted in 1985 of the murder of a 17-month-old baby in 1973. The conviction was overturned on appeal and a verdict of acquittal was entered. In 1997 the Crown charged Carroll, alleging that he had lied at his first trial when he denied killing the victim.

Carroll was subsequently convicted of perjury, but the conviction was quashed by the High Court on the basis that the perjury prosecution violated what is known as the rule against double jeopardy. In simple terms, double jeopardy refers to the common law rule that a person cannot be tried again for an offence of which he or she has already been convicted or acquitted. The common law rule goes back 800 years. I think there were good reasons for having that rule over such a long time. But with changes in modern technology, policing techniques, and forensic methods it is time we reconsidered it.

The Government has undertaken a stance of modifying the rule to provide certain exceptions to it. These exceptions would allow a person who has been acquitted of a very serious offence to be retried if fresh and compelling evidence becomes available, or where his or her acquittal was tainted, for example if it was caused by perjury or interference with a juror. Double jeopardy reforms deal with three situations—tainted acquittals, that is, perjury or jury tampering; appeals against judge-directed verdicts on a matter of law; and fresh and compelling evidence. Tainted verdicts are verdicts that are obtained through the commission of an administration of justice offence. These offences include threatening or intimidating a witness, tampering with evidence, and perverting the course of justice.

The bill allows appeals against tainted verdicts in circumstances where the accused or another person has been convicted of an administration of justice offence in connection with the proceedings in which the accused person was acquitted, and where it is more likely than not that, but for the commission of the administration of justice offence, the accused would have been convicted. In these cases retrials would be limited to offences that carry a maximum penalty of 15 years or more. Directed acquittals include an acquittal by a jury at the direction of the trial judge; an acquittal by a judge in criminal proceedings for an indictable offence where the judge is sitting alone; or an acquittal by the Supreme Court or the Land and Environment Court in its summary jurisdiction in any proceedings in which the Crown was a party.

If such an appeal is upheld the court may only quash the acquittal appealed against and order a new trial. I believe that the fresh evidence exception attracts most concern and debate. In relation to fresh and compelling new evidence, under the bill the Court of Criminal Appeal may, on the application of the Director of Public Prosecutions, order an acquitted person to be retried for an offence that carries a life sentence if the Court of Criminal Appeal is satisfied there is fresh and compelling evidence against the acquitted person in relation to that offence and, in all the circumstances, it is in the interests of justice for the order to be made. That is a pretty tough test.

I point out to all honourable members that under the Criminal Appeal Act fresh evidence cases can be brought by persons who have been convicted. That occurs not all that frequently but it does occur in the Court of Criminal Appeal. There are circumstances such as the McLeod-Lindsay case. The offence was alleged to have been committed in Amaroo Street, Sylvania Heights, in my electorate of Miranda. The court ordered an inquiry under section 474 of the Crimes Act.

I want to spend some time dealing with the fresh and compelling evidence test, as it is a very important test. Proposed section 102 defines "fresh and compelling evidence" as evidence that was not adduced at the earlier trial, evidence that could not have been adduced with the exercise of reasonable diligence, and evidence that must be reliable, substantial and highly probative of the case against the acquitted person. A very important safeguard in court, and a very tough test, relates to evidence that was not adduced, that could not have been adduced with due diligence, and that is reliable, substantial and highly probative. The honourable member for Cronulla referred to the concern of the Legislation Review Committee, as expressed in paragraph 42 of its "Legislation Review Digest No. 13", which states:

> The Committee refers to Parliament the question as to whether the Bill, by not providing that the Court must take into account delays caused by the conduct of the prosecution in its consideration of whether the interests of justice would be served by allowing an application for a retrial, trespasses unduly on personal rights and liberties.

I say to the honourable member for Cronulla that this very tough test is that the evidence was not adduced with reasonable diligence at the earlier trial. The Court of Criminal Appeal must take into account, first, whether the evidence was not adduced at the earlier trial—it would be looking for reasons why the evidence was not adduced at the earlier trial—and, second, whether the evidence could have been adduced with the exercise of reasonable diligence. If the police were accused of having the evidence but not producing it, not investigating a case with reasonable diligence, or not following what appeared to be reasonable leads, the Court of Criminal Appeal would seriously take that into account when deciding whether it was in the interests of justice that the acquitted person be retried.

In itself the interests of justice test is very stringent. It looks at the interests of the prosecution and at the interests of the accused person, the appellant, or the person against whom the Crown seeks to have the case reheard. So it is a very stringent test that I believe would satisfy the honourable member for Cronulla. If he looks closely at proposed section 102 and at some of the cases relating to fresh and compelling evidence that have been previously cited by the Court of Criminal Appeal, his concerns will be put to rest, because the evidence must be reliable, substantial and highly probative of the case against the acquitted person. So it is a very stringent test.

The Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill complements the double jeopardy reform bill. The DNA Review Panel will ensure that the benefits of forensic testing are available both to the prosecution and to the defence. It will give those who have been wrongly convicted an opportunity to show their innocence by providing DNA for testing. The DNA Review Panel amendments will be made to the Crimes (Local Courts Appeal and Review) Act 2001, which will be renamed the Crimes (Appeal and Review) Act 2001 and will also contain provisions relating to double jeopardy and other conviction reviews by the Supreme Court.

The proposed DNA Review Panel consists of six members from a variety of different backgrounds, including a retired judge, a victim's representative, a senior Public Defender, and a representative from the Director of Public Prosecutions. The panel will consider applications from people who have been imprisoned in relation to offences carrying a maximum penalty of 20 years or more, but the panel will also be given the discretion to look into other matters if it sees fit. The panel will arrange further DNA testing where a convicted person's claim of innocence may be affected by DNA information. The panel will deal only with people who are currently in prison serving a sentence. The bill has a sunset provision and will cease operation after seven years. I have considered the test carefully and the fact that it is likely that the double jeopardy reform bill will only rarely overturn an acquittal and provide for a person to be retried. Having looked at the stringent test I commend the bill to the House.

Mr BRAD HAZZARD (Wakehurst) [12.37 p.m.]: I speak to the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill and the Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill. The shadow Attorney General, the honourable member for Gosford, and other Opposition speakers have already said that the Opposition will not oppose either of these cognate bills. I understand the concerns of those who expressed reservations about the double jeopardy bill in particular. As a solicitor of almost 30 years duration I am well aware of the long and compelling history and arguments for the rule against double jeopardy.

Those who argue against changing the double jeopardy rule without considering advances in technology, particularly advances relating to the use of DNA evidence, are really putting forward yesterday's argument. The double jeopardy rule has been in place for hundreds of years. When I was studying science at university I recollect that the biochemistry of DNA, or the deoxyribonucleic acid, was very much a new science. When I was at school the theoretic model of the double helix for DNA was still being mooted. We have come a long way. Across the world we now have the genome project, in which almost every gene is being plotted, catalogued and categorised by scientists.

There is no question that the law must reflect moves in technology. The opportunity to ensure that justice prevails—which, of course, is the whole purpose of the criminal law—is best reflected by giving some consideration to the existence of these advances in our technology. There is no question but that justice would generally require that once a person has been tried he or she should not be exposed to the ongoing Damocles sword scenario of a further trial. However, some cases are so horrific that the community must determine as a matter of policy on whose side it will come down. The Coalition is firmly on the side of the community, and particularly the victims.

There are strong arguments to say that if someone commits an offence that attracts a penalty of either imprisonment for 15 years or more or life, the community expects the Government to ensure that our legislative framework allows the court processes and prosecutors to bring the suspect back before the court to be properly tried if there are compelling reasons to do so. As the Attorney General pointed out, some safeguards have been provided. Proposed section 102 requires that there be "fresh and compelling evidence"; and proposed subsections (2) and (3) define the words "fresh" and "compelling". I have sufficient belief in our Court of Criminal Appeal that it will be able to rely on those definitions to ensure that defendants are treated fairly and reasonably in a determination of whether there is fresh and compelling evidence.

Given that he led in this debate, I assume that the Premier will reply to it. I am interested to hear why the Government has separated offences that could attract a penalty of 15 or more years' imprisonment from those that could attract a life sentence. If we are serious about double jeopardy, I believe the community would have had no difficulty with the proposed section 102 requirement—that is, that there be fresh and compelling evidence—applying to both categories. It would appear that some distinctions are made in this legislation that do not have much logic. Proposed section 101 provides:

> (1) The Court of Criminal Appeal may, on the application of the Director of Public Prosecutions, order an acquitted person to be retried for a 15 years or more sentence offence if satisfied that:
>
> (a) the acquittal is a tainted acquittal, and
>
> (b) in all the circumstances it is in the interests of justice for the order to be made.

Proposed section 103 (2) defines tainted acquittals:

> An acquittal is ***tainted*** if:
>
> (a) the accused person or another person has been convicted (in this State or elsewhere) of an administration of justice offence in connection with the proceedings in which the accused person was acquitted, and
>
> (b) it is more likely than not that, but for the commission of the administration of justice offence, the accused person would have been convicted.

In other words, if a person has been acquitted of an offence because they or someone else in the process of giving evidence committed another offence—perhaps giving false testimony—the acquittal may be tainted. From my reading of the bill, if the offence could attract a 15-year or more penalty, for some reason we have a second class of people who will be exposed to double jeopardy. In the absence of further explanation I cannot understand why the Government simply did not apply the notion of fresh and compelling evidence to everything beyond 15 years. I am interested to hear the Government's view on that. If the Premier responds, can he indicate why proposed section 99 contains a restriction on the capacity to bring a further charge if a person has been acquitted of an offence in another State that does not have the equivalent of this legislation? Proposed subsection (2) provides:

> This section extends to a person acquitted in proceedings outside this State of an offence under the law of the place where the proceedings were held.

However, it also provides:

> However, this section does not so extend if the law of that place does not permit that person to be retried and the application of this Division to such a retrial is inconsistent with the Commonwealth Constitution or a law of the Commonwealth

If a person is acquitted, for example, in Victoria or Queensland, of an offence that attracts a life sentence, and if that person flips across the border to New South Wales, why should we not have the capacity to bring a further charge based on DNA evidence? The limitations in this provision will encourage State swapping by people who may have been acquitted in Queensland or elsewhere. If Queensland does not have similar legislation, an offender would be able to flip into New South Wales and take up residence with full immunity from these provisions. If we accept that technology has reached the point at which we should amend the basic rule about double jeopardy, why should we limit this measure in that way? I seek the Government's clarification of that because if we are all singing from the same song sheet and we all agree that new technology has made these changes necessary, why has that limitation been included?

Obviously I support the establishment of the DNA Review Panel, because clearly we cannot have the legislation allow only one-way traffic. This legislation will allow convicted people to apply to the DNA Review Panel to have their conviction reviewed. My only concern is the sunset provision in proposed section 97. It appears to state that, prima facie, the legislation will cease to have effect in seven years, although it may be extended to 10 years. Does that mean that over the next few years people who want their case reviewed by the panel will be excluded? I do not understand the logic. I have no difficulty with the concept of people having the right to apply to have their evidence reviewed by the Court of Criminal Appeal because of the findings of the DNA Review Panel. I simply want the Government to explain the reason for this sunset provision, which could be unnecessarily limiting and may be counterproductive in providing people with the right to prove their innocence.

Mr JOHN MILLS (Wallsend) [12.49 p.m.]: Constituents have raised with me two concerns about the fairness of the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill. The first relates to a person being acquitted of a serious charge and then retried under the provisions of this bill for double jeopardy and acquitted again, and whether the legal costs of the accused for the second trial and acquittal would be met by the State. The bill does not appear to address legal costs in the case of a double acquittal. I understand that the standard legal aid criminal law criteria would apply—that is, a means test and a merits test—and, obviously, the merits test would be met in such cases.

Would costs follow the decision, or would the person acquitted a second time have to bear their own costs if they did not qualify for legal aid? The Government needs to address this issue. The second concern is whether there are safeguards to prevent further retrials after the first double jeopardy appeal. In other words, is there triple jeopardy? Now that the bill is available to us and we can read the details, we see that there are safeguards under section 105 and that there will not be triple or higher multiples of jeopardy.

Mr ALEX McTAGGART (Pittwater) [12.50 p.m.]: I support the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill, although with some hesitation. I note that some Independents had planned to move a number of amendments as suggested by the Law Society of New South Wales. However, in the past hour the Attorney General has given a very clear presentation of the intention and content of the bill, which has alleviated many of my concerns. I did not get a lot of that information from the second reading speech.

Unlike many members of this House, I have no legal training. Therefore, in regard to this bill and other legal bills, like other lay people, I must rely on the advice I receive from relevant legal bodies and authorities. I, as well as other members of Parliament, have been lobbied by members of the Law Society of New South Wales and had put to me a number of amendments that it believes are further safeguards to strengthen the intention of the bill. I believe that some parts of the bill are a populist response to society's moving further to the right on law and order. So it is important to remove any opportunistic position from the consideration of this bill.

I will mention very briefly the amendments that were proposed by the Law Society of New South Wales, which were circulated to all members and have been spoken about by many members. The bill has now been analysed thoroughly in this House. The first amendment was that the only offence to which the legislation should apply is murder, and I note that the legislation is limited now to crimes that carry a life sentence. The second amendment was that the new provisions should not apply to people convicted before the commencement of this legislation. However, if the intention of the bill is to allow for the introduction of fresh and compelling evidence, it should apply to past crimes.

The third amendment was the time limit of five years, and I tend to agree with the Law Society's argument about ensuring the integrity of evidence, which can deteriorate or be lost, and how investigators, witnesses, et cetera, may no longer be available. The fourth amendment was that the reopening of a police investigation should be authorised by a Supreme Court judge rather than by the Office of the Director of Public Prosecutions. I find this recommendation compelling because that office would have had carriage of the original case and could thwart a reopening because it might not reflect favourably on the office. I believe that needs further consideration.

The fifth amendment was that people affected by the legislation should be entitled to have the costs of their legal representation paid in all proceedings. Again, I find this recommendation compelling. The cost of justice in this country is extraordinarily high, both for the Government in providing the investigation and prosecution, and for the defence. The cost of reopening a case on the basis of "fresh and compelling evidence" should be met by the State as a further demonstration that the authorities have carefully considered the merits of doing so. I am happy to support the intention of the bill and I look forward to hearing the Government's reply to the debate.

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [12.54 p.m.], in reply: I thank honourable members for their participation in the debate on these very important bills. The Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill or the Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill introduce major reforms to the New South Wales legal system that bring the criminal law into the twenty-first century. It demonstrates, once again, that New South Wales is a national leader in this respect. I shall reply on behalf of the Government to the variety of issues raised by honourable members.

Firstly, in relation to the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill and the finality in litigation, the Government fully recognises the important principles that underlie the double jeopardy

rule, including the need to provide finality to the litigation process for acquitted accused. For this reason the bill allows exceptions to the double jeopardy rule for only a limited number of serious offences. In cases of "fresh and compelling" evidence, the bill is limited to offences carrying a life sentence. For "tainted acquittals", the bill applies only to offences that carry a sentence of at least 15 years. Proposed section 105 (1) allows only one retrial for any acquittal and one application for a retrial.

In regard to retrospective applications, the double jeopardy reforms will apply to all acquittals whether before or after the enactment of the bill. Application to the acquittal process before the new laws commence is essential to accommodate the possibility of newly available forensic techniques bringing to light new evidence about previously tried cases. This is also fair. The double jeopardy proposal does not affect the substantive criminal law; it provides a procedural change to allow charges to be brought again, if the Court of Criminal Appeal so orders. The laws do not impose a different criminal standard of behaviour retrospectively. For example, murder is now and always has been a crime. This reform simply affects the ability of the community to bring a murder case to trial in certain circumstances.

The scope of offences that may be eligible for retrial under the bill on the grounds of "fresh and compelling evidence" are limited to those punishable by imprisonment for life. That is, murder, aggravated sexual assault in company, and offences under the Drugs Misuse and Trafficking Act relating to large commercial quantities of drugs. Manslaughter is not included. It is a very serious offence, but the range of culpability associated with it is large, from near accident to near murder. This is a limited range of cases, reflecting the Government's intent to take a measured approach to reform of the double jeopardy rule.

In "tainted acquittal" cases, the integrity of the original trial has been brought into question by a conviction for an administration of justice offence. In a sense, the "acquittal" was not really an acquittal. This means that the reform of the law for such cases goes less to the heart of the double jeopardy principle, and the broader scope of the ground of tainted acquittal recognises that. The Legislation Review Committee has raised a number of points about the bill. The first is consistency with human rights. The New South Wales Bar Association questions whether the bill is consistent with international human rights obligations regarding the right to a fair trial. The Bar Association notes the following under Article 14 of the International Covenant on Civil and Political Rights [ICCPR]:

> No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

The Government is confident the bill is fully consistent with this requirement. The Legislation Review Committee notes that the Convention for the Protection of Human Rights and Fundamental Freedoms, in Article 4 of the Seventh Protocol, states that the principle of finality:

> shall not prevent the reopening of the case in accordance with the law and penal procedure of the State concerned, if there is evidence of new or newly discovered facts, or if there has been a fundamental defect in the previous proceedings, which could affect the outcome of the case.

In accordance with this understanding, the European Court of Human Rights has recently held that a Russian criminal procedure law that allows a case to be reopened on the grounds of new or newly discovered evidence or a fundamental defect, even though a final decision had been given, does not violate the principle of double jeopardy. This is precisely the purpose and effect of the current law.

As for the payment of costs for legal representation of the accused, providing such a right in legislation would be open to abuse. In a worst case scenario that would mean that the State may have to fund representation of an affluent person facing a retrial application because that person was convicted of jury tampering in the original trial. The legislation contains a wide range of safeguards which underscore the responsible approach taken by the Government. A number of those safeguards have already been referred to. To reiterate some others, only the Court of Criminal Appeal can order a new trial, and the court must apply an interests of justice test. Under the legislation a retrial cannot be in the interests of justice unless the Court of Criminal Appeal is satisfied that a fair trial is likely.

In determining that question the Court of Criminal Appeal must consider, first, the length of time since the acquitted person allegedly committed the offence and, second, whether any police officer has failed to act with reasonable diligence or expedition in connection with a retrial of the acquitted person. Only one application for retrial can be made. An indictment must be presented within two months after the court has ordered the retrial of an acquitted person. Publication of identifying details of the accused are prohibited unless the court

orders otherwise. There is a presumption in favour of bail for a person who is charged with an offence for which a retrial is sought until the application is dealt with.

As for the sunset period for the panel established under the Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill, testing of biological material and presenting DNA evidence based on it is now a routine part of trials. The role of the panel is, therefore, appropriately limited to past cases in which DNA technology may not have been fully utilised. The Government is satisfied that that is a reasonable and balanced approach. Given that approach, it is likely that the panel's work will end within a limited space of time. In order to ensure that we do not continue to retain a body without a clear purpose, the panel will automatically expire after seven years unless its existence is extended for a further three years by proclamation. A review after five years will consider whether such a proclamation needs to be made.

In relation to functions and powers, proposed section 91 (1), which is inserted by item [1] of schedule 2 to the Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill, sets out clearly the functions of the panel: to consider any application from an eligible convicted person and to assess whether the person's claim of innocence will be affected by DNA information obtained from biological material. These fundamental provisions set out the panel's primary purpose. In exercising its functions, the panel must consider the matters set out in proposed section 91 (2), including the interests of registered victims, the need to maintain public confidence in the administration of criminal justice, the public interest and any other relevant matter.

The panel may require the Commissioner of Police or other public authority to provide information about whether the biological material specified in an application exists and can be found, and require them to provide any such material to the panel. The DNA Review Panel is a measured and balanced response to a specific issue at a specific point in history. It supplements temporarily, rather than in any way replaces, existing avenues for appeal and review of convictions. In relation to interstate and foreign offences—the proviso in proposed section 99 (2), which appears in item [2] of schedule 1 to the principal bill—as a matter of principle the bill will allow retrials where acquittals were obtained interstate or overseas. Persons convicted outside the State should not be able to hide behind that fact to thwart an application for a retrial.

However, a potential constitutional issue has been raised concerning the operation of clause 118—the full faith and credit clause—of the Constitution of Australia. It is by no means clear that there are constitutional barriers to retrialling persons acquitted interstate. However, it may be a risk. For more abundant caution a protected provision has been carefully drafted in proposed section 99 (2). This provides that the scheme will apply to individual cases of interstate acquittals but only if this does not raise constitutional problems. Once again, I thank honourable members who have contributed to debate of what is an important reform to maintain a fair and balanced criminal justice system. I commend the bills to the House.

Motion agreed to.

Bills read a second time and passed through remaining stages.

[*Madam Acting-Speaker (Ms Marianne Saliba) left the chair at 1.05 p.m. The House resumed at 2.15 p.m.*]

PETITIONS

Artarmon Public School Bus Service

Petition requesting the provision of a school bus for the children within the southern precincts of the catchment area for Artarmon Public School, received from **Ms Gladys Berejiklian**.

Bus Service 311

Petition praying that the Government urgently improve bus service 311 to make it more frequent and more reliable, received from **Ms Clover Moore**.

Inner Sydney Light Rail

Petition requesting the development of an integrated light rail network through inner Sydney, received from **Ms Clover Moore**.

Pets on Public Transport

Petition requesting that pets be allowed on public transport, received from **Ms Clover Moore**.

Bus Service L38/438

Petition requesting the restoration and improvement of the L38/438 bus service, received from **Mr Barry O'Farrell**.

Police Resources

Petition requesting increased police resources for New South Wales, received from **Mr Steven Pringle**.

National Art School

Petition opposing proposed changes to the National Art School, received from **Ms Clover Moore**.

Breast Screening Funding

Petition requesting funding to ensure access to breast screening services for women aged 40 to 79 years and to reverse falling participation rates, received from **Mrs Judy Hopwood**.

Cammeray Open Space Rezoning

Petition opposing the rezoning of 2 Vale Street, Cammeray, from open space to residential C, received from **Ms Gladys Berejiklian**.

Sow Stall Ban

Petition requesting the total ban of sow stalls, received from **Ms Clover Moore**.

Recreational Fishing

Petition opposing any restrictions on recreational fishing in the mid North Coast waters, received from **Mr John Turner**.

Alcohol and Drug Services

Petition requesting increased funding for, and expansion of, inner city alcohol and drug services, received from **Ms Clover Moore**.

CSR Quarry, Hornsby

Petition requesting a public inquiry into Hornsby Shire Council's acquisition of CSR Quarry in Hornsby, received from **Mrs Judy Hopwood**.

Public Housing

Petition requesting that the Government not sell any inner city public housing stock and that it increase funding for public housing maintenance, received from **Ms Clover Moore**.

Old Northern and New Line Roads Strategic Route Development Study

Petition requesting funding for implementation of the Old Northern and New Line roads strategic route development study, received from **Mr Steven Pringle**.

BUSINESS OF THE HOUSE

Reordering of General Business

Mr ANDREW STONER (Oxley—Leader of The Nationals) [2.22 p.m.]: I move:

> That the General Notice of Motion [General Notice] given by me this day [Rural Health Services] have precedence on Thursday 28 September 2006.

I seek precedence for this motion because after 12 years the Carr-Iemma Labor Government has created a third world health system in western New South Wales. This motion needs to be debated because despite repeated warnings the Premier has done nothing and we have now seen the human cost of his negligence. This motion needs to be debated because the Government has ignored all the warnings, including the *Four Corners* program earlier this year when a Cobar general practitioner stated:

> In terms of access to services, it definitely is third-world, there's no question of that … There aren't many places in Africa where you don't have access to a midwife. And I can tell you that in rural South Africa, there's better access to midwifery services and a caesar than there is in rural New South Wales at the moment.

I seek precedence for the motion because Australia is a first world nation and there is simply no justification for one part of our society to live in third world conditions. There is an onus on every member of this House to ensure that New South Wales does not become a two-tiered society, with one level of services for country people and one for city people. I have told the House of the tragic case in which a Cobar mother lost her baby after being forced to give birth midflight, after the Government closed the maternity ward at Cobar. I have spoken of a Lightning Ridge mother who went into labour and a midwife could not be found for five hours. I have also told the House about the case in Dubbo in which a mother was asked to leave the Dubbo Base Hospital because of a desperate bed shortage eight hours after a complicated birth.

That is why The Nationals have called for an urgent, independent inquiry into regional and rural health. More importantly, every member of this House, especially country-based members, should rise above party politics and support me on this issue. This motion needs to be debated because all I have heard from the so-called Country Labor faction has been dirty politics and scorn, like the honourable member for Murray-Darling, who blamed the crisis in rural health on the doctors when he told the Dubbo *Daily Liberal* that some doctors have unreasonable expectations. Shame on him! He is more interested in sticking up for a Premier, whose name he cannot pronounce, than standing up for his constituents. I know who is supporting this motion: country people. We want an inquiry now. [*Time expired.*]

Mr CARL SCULLY (Smithfield—Minister for Police) [2.25 p.m.]: This is confected concern about rural health. A golden opportunity to hold the Government to account was the estimates process for the Health portfolio. Not one member of The Nationals turned up! There were two from Country Labor, because Country Labor treats this matter seriously. The Nationals did not bother to turn up. I am astonished at just how much the Government has done and is doing for rural and regional health. In this current financial year $3.46 billion will be spent in rural and regional New South Wales on health services. That is an increase of $307 million on last year.

There will be $241 million in rural and regional capital works as well as more beds, more elective surgery and better access to services for regional and rural New South Wales. An extra 201 beds will build on the 290 from the previous year. Why does the Opposition not debate the miserable deal the Federal Government gives us on health funding? Members opposite are complete apologists for the Federal Government. I have pages and pages of what we are doing in country New South Wales in health—additional anaesthetic training places, advanced specialist training positions, new rural recruitment packages, targeted vocational training in schools to support the transition of rural school leavers to health care.

Mrs Jillian Skinner: Go and speak to the doctors who are on strike at Dubbo. Talk about health at Dubbo.

Mr SPEAKER: Order! The honourable member for North Shore will come to order.

Mr CARL SCULLY: The honourable member for North Shore should ring Tony Abbott and tell him to stop being an apologist for Greg Smith and his disgraceful performance in the prosecutor's office and start writing articles about how he is going to give a better deal.

Mr SPEAKER: Order! The Leader of The Nationals will resume his seat. The honourable member for Wakehurst and the honourable member for Bathurst will stop calling out.

Mr CARL SCULLY: Tony Abbott is on trial, as far as I am concerned. The Opposition does do not like the fact that we have done a good job in health.

Mr Ian Armstrong: Point of order: The matter under debate has nothing to do with the Office of the Director of Public Prosecutions or anybody involved in it. The Minister has strayed from the subject through his own inability to debate the issue of health.

Mr SPEAKER: Order! The Minister for Police will return to the leave of the motion before the House.

Mr CARL SCULLY: This very mischievous, misleading motion does not reflect the great work that the Government has been doing in rural health. The answer is no.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 35

Mr Aplin	Ms Hodgkinson	Mr Richardson
Mr Armstrong	Mrs Hopwood	Mr Roberts
Mr Barr	Mr Humpherson	Mrs Skinner
Ms Berejiklian	Mr Kerr	Mr Slack-Smith
Mr Constance	Mr McTaggart	Mr Souris
Mr Debnam	Mr Merton	Mr Stoner
Mr Draper	Ms Moore	Mr Tink
Mrs Fardell	Mr Oakeshott	Mr Torbay
Mr Fraser	Mr O'Farrell	Mr J. H. Turner
Mrs Hancock	Mr Page	*Tellers,*
Mr Hartcher	Mr Piccoli	Mr Maguire
Mr Hazzard	Mr Pringle	Mr R. W. Turner

Noes, 50

Ms Allan	Ms Hay	Mr Pearce
Mr Amery	Mr Hickey	Mrs Perry
Ms Andrews	Mr Hunter	Mr Price
Ms Beamer	Mr Iemma	Ms Saliba
Mr Black	Ms Judge	Mr Sartor
Mr Brown	Ms Keneally	Mr Scully
Ms Burney	Mr Lynch	Mr Shearan
Mr Campbell	Mr McBride	Mr Stewart
Mr Chaytor	Mr McLeay	Ms Tebbutt
Mr Collier	Ms Meagher	Mr Tripodi
Mr Corrigan	Ms Megarrity	Mr Watkins
Mr Crittenden	Mr Mills	Mr West
Mr Daley	Mr Morris	Mr Whan
Mr Debus	Mr Newell	Mr Yeadon
Ms Gadiel	Ms Nori	*Tellers,*
Mr Gaudry	Mr Orkopoulos	Mr Ashton
Mr Greene	Mrs Paluzzano	Mr Martin

Pairs

Mr George	Ms D'Amore
Ms Seaton	Mr Gibson

Question resolved in the negative.

Motion negatived.

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Report

Mr Jeff Hunter, as Chairman, tabled the report No. 13/53, entitled "Review of the 1998 report into 'Unregistered Health Practitioners: The Adequacy and Appropriateness of Current Mechanisms for Resolving Complaints'", dated September 2006.

Ordered to be printed.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Report

Ms Marianne Saliba, as Chairman, tabled the report No. 3/53, entitled "Inquiry into Voter Enrolment", dated September 2006, together with the minutes of proceedings.

Ordered to be printed.

Ms Marianne Saliba, as Chairman, also tabled the transcript of proceedings taken before the Committee.

QUESTIONS WITHOUT NOTICE

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STATE TRANSIT AUTHORITY BUS SAFETY

Mr PETER DEBNAM: My question without notice is directed to the Premier. Given that a State Transit Authority bus driver had 69 accidents in six years and another dangerous bus driver was re-employed and almost killed Linda Duke on Spit Road last year and this Government has failed to contact her, let alone apologise to her, will the Premier finally apologise to Linda Duke for repeated systemic safety failures in public transport?

Mr MORRIS IEMMA: Of course. In relation to the first part of the Leader of the Opposition's question I can inform the House that safety is our highest priority in public transport. That is very clear. That is the commitment that we make to our passengers. The vast majority of bus drivers do the right thing. They are professional, safe and customer service focused. I repeat: There is no place for unsafe driving on our bus services.

Mr SPEAKER: Order! The honourable member for Murrumbidgee will stop calling out.

Mr MORRIS IEMMA: The State Transit Authority has around 4,000 bus drivers so at any one time some of those bus drivers could be undergoing personal, medical or family issues. Our job is to ensure that none of that impacts on safety. In relation to the first part of the Leader of the Opposition's question, I am advised that State Transit is targeting drivers with poor records and taking appropriate action. I am advised that over the past 12 months more than 20 drivers have been stopped from driving due to inappropriate actions. I am further advised that, in the last month alone, four drivers were removed from driving at one depot. The chief executive of State Transit will continue to weed out drivers who are not performing to the high safety and service standards expected of State Transit drivers.

Mr Peter Debnam: Point of order: My point of order relates to relevance. Will the Premier apologise to Linda Duke?

Mr SPEAKER: Order! The Leader of the Opposition will resume his seat. The Premier is explicitly answering the question that has been asked.

Mr MORRIS IEMMA: For the benefit of the Leader of the Opposition, the first words I uttered were "Of course."

Mr SPEAKER: Order! The honourable member for North Shore will stop calling out. The Premier has the call. The honourable member for East Hills will come to order.

Mr MORRIS IEMMA: Of course I apologise, for the third time. In relation to the second part of the Leader of the Opposition's question, at approximately 2.58 p.m. on 14 November 2005, the date to which he alluded, a State Transit Authority bus was involved in an accident at the Spit. The bus failed to negotiate a sweeping left-hand bend whilst travelling north along and descending Spit Road, which resulted in 10 people being hospitalised. The Office of Transport Safety Investigations [OTSI] conducted an investigation into the accident and has presented a number of recommendations to the Government. Again, in line with my answer to the first part of the question asked by the Leader of the Opposition, safety on our buses and ensuring that safety is maintained at all times are priorities of this Government.

As I have mentioned, the investigation resulted in a number of recommendations being made. Those investigations revealed that it was only good fortune that the accident did not result in anybody being killed. The Government is working with transport agencies to ensure that all the recommendations that were made following the investigation are implemented. The findings from OTSI are already being acted upon. State Transit and the Ministry of Transport have been directed to make this task their highest priority. The Minister has also written to the chief executive of the Independent Transport Safety and Reliability Regulator [ITSRR] requesting that it monitor the implementation of the recommendations and report back to him on this process.

The independent regulator has been asked by the Minister to track the implementation of the recommendations made by OTSI and that is exactly what ITSRR will do. It will provide that advice to the Minister to ensure that safety remains our highest priority. In conclusion, of course I apologise to the constituent just mentioned by the Leader of the Opposition, as well as the other nine passengers on the bus at that time. As I have already indicated, it was fortunate that nobody was killed.

FEDERAL GOVERNMENT INDUSTRIAL RELATIONS WORKCHOICES LEGISLATION FAMILY IMPACT

Mr ALLAN SHEARAN: My question without notice is directed to the Premier. What is the Government's response to ongoing community concerns about the impact of WorkChoices on hardworking families in New South Wales?

Mr MORRIS IEMMA: Today is the six-month anniversary of WorkChoices, an anniversary that nobody is celebrating. Today is a day on which members opposite should hang their heads in shame for selling out the families of New South Wales. Today's anniversary is a stark reminder of the choice that faces the people of New South Wales: a choice between a Government that protects working families and an Opposition that betrays them; a choice between a Government that preserves our fair and efficient State-based system of industrial relations and an Opposition that hands it over to John Howard, lock, stock and barrel.

Mr SPEAKER: Order! The Premier has the call.

Mr MORRIS IEMMA: I will do a deal with Opposition members. Why do they not ask me a question about workers compensation tomorrow?

Mr Chris Hartcher: Will you answer it?

Mr MORRIS IEMMA: Yes. Opposition members should ask me a question about workers compensation tomorrow. The people of New South Wales can choose between a Government that wants a high-pay, high-skill climb to the top and an Opposition that wants a low-skill, low-pay race to the bottom. That is the reality of WorkChoices. It is a regime that betrays working families, strips them of their hard-won rights and conditions, and creates a new class of United States of America-style working poor. WorkChoices is a cheap carbon copy of the American industrial relations system. It is anti-family, anti-worker and anti-union, and it is getting the caning that it deserves from Australian workers and their families. The Prime Minister admitted that last week. Although John Howard conceded that WorkChoices was flawed, the changes he announced last week are nothing more than a patch-up paint job on a house that should be demolished.

Mr SPEAKER: Order! The honourable member for Wakehurst will stop calling out.

Mr MORRIS IEMMA: Why does the honourable member never support workers? The changes the Prime Minister announced last week are a recognition that his legislation is flawed. However, they simply do not go far enough in rectifying the damage caused by WorkChoices. I add for the benefit of the honourable member for Wakehurst that the Government has taken strong action to protect workers and their families by shielding all public sector employees from WorkChoices, drafting new laws to better protect injured workers, doubling the small claims limit for unpaid workers and strengthening the powers of the New South Wales Industrial Relations Commission. We are proud of these achievements, which had no support from members opposite. This Government will go even further. It will extend labour laws to protect young people under 18 years of age from unfair dismissal. Why not support that? That is not all. We will also amend the Local Government Act to protect the conditions and entitlements of New South Wales council workers.

Mr SPEAKER: Order! The honourable member for Murrumbidgee will stop calling out.

Mr MORRIS IEMMA: I look forward to members opposite supporting the Government's efforts in that area. New information will also be placed on the Internet to help vulnerable groups, including young people and migrants, to protect themselves from WorkChoices.

Mr Chris Hartcher: Point of order: The Premier is quoting a legal opinion and I ask that that opinion be tabled in the House.

Mr SPEAKER: Order! It is for the Premier to decide whether he tables the document.

Mr MORRIS IEMMA: The proposed child labour laws will give young workers under 18 years of age access to the New South Wales Industrial Relations Commission. Where a young person is found to have been unfairly dismissed, the commission will be empowered to order reinstatement. As a result, 150,000 young workers in New South Wales will benefit from this change. The new laws will ensure that wages and conditions of young people are at least equal to those stipulated in New South Wales laws and awards. Young workers will not have to bargain individually to maintain their existing penalties, allowances, training pay and training leave.

[*Interruption*]

That is exactly what members opposite would do: They would betray these vulnerable young people. Unlike the Opposition, this Government will stand up for them and protect them.

Mr SPEAKER: Order! The honourable member for Coffs Harbour will stop calling out.

Mr MORRIS IEMMA: That protection will be available to council workers as well.

Mr SPEAKER: Order! The Leader of The Nationals will come to order.

Mr MORRIS IEMMA: I know members opposite sacked half of them when they were last in government. That is why this Government is protecting them.

[*Interruption*]

They hate it every time we utter the word "worker". I am talking about the dedicated men and women who staff our local libraries, swimming pools and child care centres, who clean our streets and protect our beaches—the dedicated, hardworking council workers. There are 50,000 of them across New South Wales. They are hardworking Australians that the honourable member for Vaucluse would simply ignore.

Mr SPEAKER: Order! The Leader of The Nationals will stop calling out.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Wakehurst to order.

Mr MORRIS IEMMA: They should sit there and listen to how this Government will protect workers. I will not get on with it because the honourable member wants me to. We are here to pass laws to protect workers.

Mr Donald Page: Point of order: I refer to that authoritative book on industrial relations by none other than Michael Costa, in which he talks about—

Mr SPEAKER: What is the point of order?

Mr Donald Page: Mr Costa says—

Mr SPEAKER: Order! There is no point of order.

[*Interruption*]

Mr SPEAKER: Order! The honourable member for Ballina will resume his seat. He knows that he is now flouting the standing orders.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Ballina to order.

Mr MORRIS IEMMA: This Government will amend the Local Government Act to protect the sick leave and long service leave entitlements of those men and women who work in our councils. They will be immunised from WorkChoices. They have been sold out by members opposite, but they will be protected by this Government. We recognise that the working conditions of New South Wales families are not simply optional accessories like membership of the Royal Motor Yacht Club. Things such as penalty rates, overtime, flexible hours and parental leave—

Mr SPEAKER: Order! I call the honourable member for Murrumbidgee to order.

Mr MORRIS IEMMA: —are bread and butter issues for families, and this Government will protect them. Members opposite want to hand over the entire system to Canberra. They do not care, they do not understand and they will never stand up for workers in this State. While I am talking about amending the Local Government Act and protecting council workers, I welcome to the public gallery some of the young workers who will be protected: Kristy, Catherine and Armina, and representatives from the Marrickville, Bankstown, Woollahra and Waverley councils. Under this Government's amendments they are now protected. This Government will continue its efforts without any support from members opposite to stand up for workers and their families in this State.

AIR AMBULANCE BABY DEATH

Mr ANDREW STONER: I direct my question to the Premier. Given that he advised this House that there was an investigation into the tragic death of a baby whose mother was forced to give birth midair after his Government closed the Cobar District Hospital maternity ward, can he explain why the parents were not contacted as part of the investigation?

Mr MORRIS IEMMA: As the Leader of The Nationals is aware, I have previously provided an answer on this matter in the House. I again extend my condolences to the mother and the family. I am advised by the chief executive of the Greater Western Area Health Service that medical care was given to the mother and baby during the delivery. The care provided was a co-ordinated effort between the medical staff at Cobar Health Service, Dubbo Base Hospital and Health Service, the Newborn and Paediatric Emergency Transport Service, the Royal Flying Doctor Service and the New South Wales Ambulance Service.

Mr SPEAKER: Order! The Leader of The Nationals will stop calling out. The Premier has the call.

Mr MORRIS IEMMA: The advice from the Greater Western Area Health Service further states that the patient, who was 27 weeks pregnant, presented to Cobar Health Service emergency department at 12.50 a.m. I am further advised that the Newborn and Paediatric Emergency Transport Service was contacted, treatments were ordered and transfer organised. The patient's observations were stable between 1.30 a.m. and 3.30 a.m.,

and at 4.00 a.m. she was transferred by ambulance to Cobar Airport. I am advised that the baby was born shortly after 5.00 a.m. Medical staff on the flight commenced bag and mask respiration immediately. Despite all efforts by all staff involved on the flight, and at Dubbo Base Hospital and Health Service, the baby died shortly before 6.30 a.m. That was clearly a tragic event. The chief executive of the area health service has advised that an internal investigation into this case has determined that the mother and the child received appropriate care during the difficult birth.

Mr Andrew Stoner: Point of order: On a point of relevance, the point of the question, which the Premier seems to be ignoring, is that this internal investigation did not bother to talk to the parents concerned. How can you have an investigation unless you talk to the mother and father?

Mr SPEAKER: Order! I do not uphold the point of order at this stage. The Premier is clearly continuing his answer.

Mr MORRIS IEMMA: In relation to the last point the honourable member raised, I will refer the matter for a report from the Minister for Health.

FEDERAL GOVERNMENT INDUSTRIAL RELATIONS WORKCHOICES LEGISLATION FAMILY IMPACT

Mr NEVILLE NEWELL: My question without notice is directed to the Deputy Premier. How is the Government helping to protect New South Wales workers and their families from the impact of WorkChoices?

Mr JOHN WATKINS: As the Premier has said, WorkChoices has put the job security of thousands of families at risk.

Mr SPEAKER: Order! I call the honourable member for Wakehurst to order for the second time.

Mr JOHN WATKINS: WorkChoices has stripped thousands of workers of their workplace conditions and entitlements. Since March the New South Wales Office of Industrial Relations has received more than 110,000 calls from workers and businesses across the State who have been hurt by these changes. That equates to about 1,000 calls each working day that WorkChoices has been in place in this nation. Calls have ranged from workers who have lost entitlements and conditions, such as penalty rates and overtime, to businesses that are frustrated by the extra red tape.

Since the introduction of WorkChoices, the New South Wales Iemma Government has done all it can to protect and support hardworking New South Wales families. That is why, firstly, we have spearheaded a High Court challenge to have these uncertain laws overturned. Secondly, we have passed new laws to protect front-line public servants, including nurses, ambulance officers and TAFE teachers. We have drafted new legislation to protect injured workers. We have introduced new laws to protect young workers. We have doubled the small claims limit for underpaid workers and we have strengthened the powers of the New South Wales industrial relations system.

Despite the mounting evidence of how bad WorkChoices is for the State's workers and businesses, the New South Wales Opposition is supportive of WorkChoices. It needs to be said very clearly in every corner of this State that the Leader of the Opposition is committed to handing over hardworking New South Wales families to the dog-eat-dog world of WorkChoices if he is elected next year. He is willing to abandon the fair and balanced New South Wales industrial relations system that has been looking after workers and businesses for more than 100 years—the same system in operation in New South Wales that has recovered more than $1 million in unpaid wages for workers across the State so far this financial year.

Mr Brad Hazzard: Point of order—

Mr Milton Orkopoulos: You don't support WorkChoices!

Mr Brad Hazzard: I do support it.

Mr SPEAKER: Order! The honourable member for Wakehurst will proceed with his point of order.

Mr Brad Hazzard: I am responding to an interjection.

Mr SPEAKER: Order! The honourable member for Wakehurst should not respond to interjections. He will proceed with his point of order.

Mr Brad Hazzard: The standing orders state that the Minister is not to mislead the House. The Minister knows that the State Coalition has excluded all State workers from WorkChoices. Teachers, nurses, police are excluded from WorkChoices. We have done what we need to do.

Mr SPEAKER: Order! The honourable member for Wakehurst will resume his seat. I call the Minister for Aboriginal Affairs to order.

Mr JOHN WATKINS: The honourable member for Wakehurst should have his pay docked for that. The Leader of the Opposition is willing to abandon workers in this State. In less than three months inspectors from the New South Wales Office of Industrial Relations have supervised 463 back payments from 391 employers, totalling $1.022 million, as part of statewide compliance campaigns. The retrieval of wages ranged from under $100 up to $35,000. Examples include $12,709 for seven casual shop employees in Batemans Bay, who were being paid the incorrect award rate and were not receiving casual holiday loading; $35,000 for a truck driver from Tamworth for underpayment of wages and allowances; $10,512 for two bingo callers in South Sydney for underpayment of their wages; and $12,340 for eight florists in the Southern Highlands for non-payment of casual loadings—although they are not the only workers in the Southern Highlands who have been done over recently at work. The honourable member for Southern Highlands is not here today; she is out seeking employment.

Under WorkChoices, the Federal Office of Workplace Services—the Federal agency set up to assist—has just 15 new inspectors to cover 1.4 million workers who have been forced into the new regime. The inspectors will be powerless to assist because employers can legally sack their work force if they do not like them, for operational reasons or for no reason at all. That is the brutality of this new system. And with 15 new inspectors looking after 1.4 million workers, "don't call them, they will call you". That is the only way they will come your way. This flawed and unfair Commonwealth approach is the very industrial relations system that the Leader of the Opposition embraces. The Leader of the Opposition has declared he is in lock-step with his Federal colleagues on WorkChoices. But he cannot be trusted even to look after the workers on his own staff: he steals their pay rises to put into the pockets of the favoured few. How can he be trusted with the rest of the work force in New South Wales?

I understand the Leader of the Opposition was a little hurt after our discussion yesterday about performance pay. But he should blame John Dowd and he should blame the honourable member for Orange who really put the boot in. The Leader of the Opposition issued a press release yesterday saying it was impossible for the Opposition to adopt performance bonuses now, that it could only do that if it got into government. It may be impossible to pay performance bonuses to a crew that do not perform, but the Leader of the Opposition, the Leader of The Nationals and several others receive additional pay for their duties.

Mr Peter Debnam: Point of order: My point of order is: Why can we not have the honourable member for Mount Druitt back on the front bench? At least he is entertaining. This guy is a moron.

Mr SPEAKER: Order! The Leader of the Opposition will resume his seat. I call him to order. I am sure the honourable member for Mount Druitt would want me to do that.

Mr JOHN WATKINS: If members of the Opposition think that performance pay is a good idea, let them introduce it now. But none of them want it because they are all terrified. Who gets to judge what the Leader of the Opposition gets paid? I will volunteer!

Mr Peter Debnam: Point of order: I will make it retrospective, back to 1 July for that bunch of clowns.

Mr SPEAKER: Order! There is no point of order.

AIR AMBULANCE BABY DEATH

Mr ANDREW STONER: My question is directed to the Premier. In view of repeated warnings about the dangerous state of the health system in western New South Wales, including the June *Four Corners* report, which compares it to the Third World and warned that a baby might die, will the Premier now apologise to

bereaved parents Tim Lang and Sarah Moore in the gallery today, who are the victims of this Government's negligence?

Mr MORRIS IEMMA: In the previous question the Leader of The Nationals asked—

Mr Andrew Stoner: If the Premier apologised the question would not be necessary. The Premier should apologise.

Mr SPEAKER: Order! The Leader of The Nationals will come to order.

Mr MORRIS IEMMA: Of course, the death of any baby is a tragedy and I repeat the condolences of the Government for the tragedy that occurred.

Mr SPEAKER: Order! I call the Leader of The Nationals to order.

Mr MORRIS IEMMA: I repeat, as I did when the Leader of The Nationals asked the question a couple of weeks ago, that the death of any baby is a tragedy. On behalf of the Government I extend my condolences to the family.

Mr Andrew Stoner: But you will not apologise?

Mr MORRIS IEMMA: Of course we do.

Mr SPEAKER: Order! The Premier has been asked a question and he is answering the question.

Mr MORRIS IEMMA: I would have thought extending condolences to the parents of a baby and saying that it is a tragic incident and prefacing it with the words "of course", is an apology to the family. I indicated in my previous answer that I will refer the last point raised in the honourable member's question to the Minister for Health for advice.

COALITION ECONOMIC POLICY

Mr GRAHAM WEST: My question without notice is addressed to the Premier. What impact would the Opposition's grab bag of unfunded commitments have on the State budget?

Mr MORRIS IEMMA: Nothing is more important to the fortunes of New South Wales than keeping the State's budget in order. Our triple-A credit rating depends on it, as do business confidence and economic credibility. It is with that in mind that today I noted with concern fresh Treasury costings for the Leader of the Opposition's promises and savings strategies. There will be no performance pay coming to him as a result of this. As I have previously advised the House, the Peter meter was running at about $20 billion. That is why we offered him, some weeks ago, an amnesty to cut out the "really silly" stuff, as opposed to the "plain silly" stuff. I can advise the House that the figure has now climbed to a record, probably for any Opposition at this point in the electoral cycle. It has climbed to a whopping $25 billion.

Mr SPEAKER: Order! I call Government members to order.

Mr MORRIS IEMMA: Since the estimates hearings the offer has been on the table for the Opposition to rule out items on that list. I note that a number of weeks have passed and members opposite have not taken the opportunity to rule out any item on the list. Without intervention on the part of the honourable member for North Shore or the Leader of the Opposition, the figure stands at a record $25 billion. The Leader of the Opposition has already promised a similar amount in this grab bag of election pork-barrelling to what Bill Gates has promised the world in eradicating disease. That is why it is important to maintain the State's triple-A credit rating and financial position. Also, it is why we asked Treasury to analyse the figures in the Leader of the Opposition's savings plan to see what would happen if he actually spent his $25 billion in promises.

We asked Treasury for some advice. Being very generous to the Leader of the Opposition, the advice is that we must make three assumptions. The first is that the Leader of the Opposition gets his 29,000 sackings of nurses, teachers and police, with the attendant reduction in hospital services, policing and education services, and the savings that would accumulate over four years. The second assumption is that he is able to get the cuts to consultants from day one as he outlined, and the third assumption is that he cuts government advertising. So

there will no more road safety programs or anti-smoking programs. Those three assumptions will result in no more advertising of new bus timetables, no recruitment and no drink-driving warnings. According to Treasury, the savings from these measures—29,000 sacked nurses, teachers and police, and a reduction in consultants and advertising—would add up to a maximum of $10.5 billion over four years, which would leave at the very least a $15 billion black hole.

Mr SPEAKER: Order! There is too much conversation on the Opposition benches.

Mr MORRIS IEMMA: Treasury advice is that to balance the books each and every taxpayer would have to pay an extra $1,276 a year in tax to fill the Leader of the Opposition's budget black hole. Every man, woman and child in New South Wales would have to pay an extra $645 a year to fund his budget black hole. That is what is left even after being generous to the Leader of the Opposition by assuming that he gets his 29,000 sackings and achieves cuts to advertising drink-driving, anti-smoking and breast cancer campaigns.

Other than this massive tax grab, another option for the Leader of the Opposition would be to increase payroll tax from 6 per cent to about 9.7 per cent; or land tax would need to increase from its current rate of 1.7 per cent to 5.2 per cent to fund his budget black hole. There you have it! Every taxpayer would pay an extra $1,276 or every man, woman and child would pay $645. I have given the example of two State taxes that would have to increase to fund his budget black hole. Payroll tax would increase from 6 per cent to 9.7 per cent and land tax would increase from the current 1.7 per cent to 5.2 per cent. The true cost of the savings in reality will be much, much more. If the Leader of the Opposition does not achieve savings of $10 billion—

Mr SPEAKER: Order! The honourable member for Gosford will cease interjecting.

Mr MORRIS IEMMA: The honourable member for Upper Hunter lost all that money at Luna Park a long time ago, just for fun.

Mr SPEAKER: Order! I call the honourable member for North Shore to order. I call the honourable member for Myall Lakes to order.

Mr MORRIS IEMMA: That was just Luna Park. That is not mentioning Eastern Creek at $150 million. Assuming that the Leader of the Opposition does not get his 29,000 sackings, and if he decides to keep a few public information campaigns, such as anti-smoking and anti-drink driving, he is in trouble because the black hole just gets even bigger and the tax increase for every taxpayer skyrockets to $2,150 a year. That is what is in store for the people of New South Wales under the Leader of the Opposition's economic policy–either a budget black hole of more than $15 billion, which sees every taxpayer paying an extra $1,200 in tax, or a budget black hole of $25 billion, which sees New South Wales taxpayers paying an extra $2,150 or an additional $918 for every man, woman and child in New South Wales. These figures are based on being incredibly generous to the Leader of the Opposition. If he gets into trouble he will not tell us which promises become core promises and which ones become non-core promises.

Mr SPEAKER: Order! I call the honourable member for Wakehurst to order for the third time.

Mr MORRIS IEMMA: We are still waiting on information as to which promises will be core promises and which ones will be non-core promises. In simple terms, that all adds up to this: it is the most dangerous economic policy ever presented to the people of New South Wales. Even by the most generous interpretation, it represents a $15 billion black hole and a tax slug of $1,276 for all New South Wales taxpayers.

MINISTERIAL CODE OF CONDUCT

Mr PETER DEBNAM: My question is to the Premier. Given that this is a copy of the July 1995 ministerial code of conduct, is this the code that has been applied to his Ministers since 1995?

Mr MORRIS IEMMA: An amendment to the code is currently in the upper House. It has been finalised, but awaits the Legislative Council's agreement on one important matter, that is, the new supervisory powers and functions of the Parliamentary Ethics Adviser. The Legislative Assembly has already adopted the changes and we await the Legislative Council's agreement on the new role of the ethics adviser. The Government will then be a position to finalise the new code. Look to the proceedings in the upper House.

Mr PETER DEBNAM: I ask a supplementary question of the Premier. Given his answer, presumably this is the code. Will he confirm that this is the code that has been applied to every single one of these Ministers since 1995?

[*Interruption*]

Mr SPEAKER: Order! The Leader of the House has claimed that the Leader of the Opposition has asked the same question. Basically it is the same question. The Leader of the Opposition will resume his seat.

[*Interruption*]

Mr SPEAKER: Order! The Leader of the Opposition will resume his seat.

Mr Peter Debnam: I am going to take another point of order.

Mr SPEAKER: What is your point of order?

Mr Peter Debnam: This is a critical issue to the people of New South Wales.

Mr SPEAKER: Order! That is not a point of order. The Leader of the Opposition is grossly out of order. I call him to order for the second time. The honourable member for Macquarie Fields has the call.

GUN CRIME STATISTICS

Mr STEVEN CHAYTOR: My question without notice is to the Minister for Police. What is the latest information on continuing efforts to drive down on crime in New South Wales?

Mr CARL SCULLY: The Bureau of Crime Statistics and Research [BOCSAR] issued a report today, entitled, "Firearms and Violent Crime in New South Wales, 1995-2005." And members opposite hate every word of it. In fact, I understand that they got to about halfway through the first page and they got indigestion, as they turned to the second page they got ill, and by the third page some of them had to be hospitalised. The only remedy from the doctor was, "Do not read any more. It is too good for the people of New South Wales. You only want negativity. That is what makes you feel better." After reading the words of the independent umpire on crime I have only good news. The streets of Sydney have never been safer. The streets of New South Wales have never been safer. When it issued the report this morning, the independent umpire on crime—

Mr Chris Hartcher: No-one believes it!

Mr CARL SCULLY: This is the independent umpire. Members opposite like BOCSAR reports when they show an increase in crime rates. Honourable members will recall that five years ago when BOCSAR indicated that some categories of crime had gone up, members of the Opposition loved it. They do not like the fact that over the last five years almost every category of crime has either fallen or remained stable.

Mr Peter Debnam: Point of order: I find that offensive.

Mr SPEAKER: Order! There are appropriate ways for the Leader of the Opposition to take a point of order or a point of privilege. That is not one of them. All the Leader of the Opposition is doing is taking up the time allotted for questions. Rather than continue to interject, he will resume his seat and allow the Minister to continue his response. The Minister for Police has the call.

Mr CARL SCULLY: I am not sure which is the right word, "confected" or "feigned". I am not sure which is better, but I think it is "confected feigned indignation" we have here. I am not going to use the phrase, "Methinks he doth protest too much." Let me go through some of the figures. Overall, crimes involving firearms are down 44 per cent since 1997. Do members want to hear that again? Crimes involving firearms are down 44 per cent. In particular, offences of robbery with a firearm decreased from 1,200 offences in 1997 to 500 last year. That is almost too hard to believe.

Mr Barry O'Farrell: Point of order: My point of order relates to Standing Order 138. I think the Minister has forgotten Labor was elected in 1995.

Mr SPEAKER: Order! There is no point of order. The Deputy Leader of the Opposition knows standing orders better than most members. The Minister for Police has the call.

Mr CARL SCULLY: I am simply referring to what is in the report. It says that this Government and NSW Police have done a terrific job in driving down gun crime—not a little tick; a big tick to the New South Wales police. Since 2001 shooting offences are down by 40 per cent and shooting incidents involving handguns in particular have decreased by approximately 62 per cent. Sadly, 15 people were murdered with a firearm in 2005. Any loss of life is, of course, tragic but that represents eight fewer people than were murdered in 2001. The figures for murders involving handguns have reduced in five years from 12 to five. It is also encouraging to note the sharp decline in shooting incidents involving 15- to 19-year-old offenders. It was that age group that caused the huge increase in homicide rates in the United States of America between 1985 and 1991.

These reductions are testament to the hard work of New South Wales police and the sustained support they have received from this Government over 11½ years. What do these guys opposite do? They hop into the cops. They attack the police. Here are some quality contributions from the Opposition. The first is from the Leader of the Opposition in March of this year, "What we're seeing at the moment is an armed robbery every 45 minutes."

[*Interruption*]

It is laughable. He just shoots them off and hopes that radio talkback listeners are alarmed and affronted. It is a demonstrable, unadulterated untruth. It is nowhere near the truth. He just throws out the words, "every 45 minutes".

Mr SPEAKER: Order! The honourable member for Wakehurst will come to order.

Mr CARL SCULLY: This is one of my favourites: "We're seeing a drive-by shooting every day and we're seeing a murder in a hail of gunfire every second day." My goodness! Where does he think we are, Chicago, Los Angeles or New York?

Mr SPEAKER: Order! The honourable member for Wakehurst will come to order.

Mr CARL SCULLY: I have some news for him. The Los Angeles Police Department covers an area with about four million citizens and gets about 500 murders every year. Chicago Police Department covers an area with about four million citizens and gets about 550 murders each year. The Leader of the Opposition says that we get about 180-odd murders a year. No, we get less than half that. The Leader of the Opposition has been found out peddling untruths to try to give the impression that New South Wales is a dangerous place, in every corner of every street of every suburb of every neighbourhood, and if the Labor Government were defeated there would be peace and tranquillity. I am sorry. It is not the Minister for Police saying this. The Bureau of Crime Statistics and Research says that his story just does not add up. And there is more. The Leader of the Opposition said:

> You can have whatever gun laws but unless you are actually targeting the criminals who actually have the illegal guns you are not going to achieve anything.

Clearly, the Leader of the Opposition will say and do anything—

Mr Peter Debnam: Point of order: I just want to know has the Minister found page 7 of the report? I know the member for Bankstown and the member for Liverpool have found page 7.

Mr SPEAKER: Order! That is not a point of order. The Leader of the Opposition will resume his seat.

Mr Peter Debnam: No? I will give you a copy of page 7.

Mr SPEAKER: Order! If the Leader of the Opposition wants to debate this issue he can do so at the proper time. The Minister for Police has the call.

Mr CARL SCULLY: I am going to ask the Bureau of Crime Statistics and Research to create a new category of crime to be called, "Opposition shooting itself in the foot". Whilst all these figures are down, down, down, the seventeenth category of crime, "Opposition shooting itself in the foot" is up. Here are a couple of gems, here we go, another one from Pete:

> There are hundreds, perhaps a thousand, young men with access to illegal guns and a willingness to use them to intimidate, rob and kill.

He confirmed that later, in October last year:

> There are about a thousand young men …

But then he had to downgrade it in December and say there were only about 150. So, even he cottoned on to the fact that crime was coming down. I want to make sure that the public knows how well NSW Police has been doing. Whilst the Government is delighted that the police have been using the powers, the equipment and the resources we have given them—I know they acknowledge that when they ask, this Government gives—the credit does not go to the Government; it goes to NSW Police. I want to see the Leader of the Opposition put out a press release saying: Ken Moroney, well done; Andrew Scipione, well done; every commander across the State, well done; NSW Police, thank you for making the streets of this city and this State much safer than they have been in the past five to 10 years.

NORTH HEAD QUARANTINE STATION

Mr DAVID BARR: My question is to the Minister for the Environment. What is happening with the quarantine station lease?

Mr BOB DEBUS: I can inform the House that negotiations are still under way with a company called Mawland over the proposed lease of the quarantine station site. The intention is that the National Parks and Wildlife Service will have completed those negotiations by the end of October. It is then a matter for Mawland to arrange financing, and the Government has to be satisfied that any financial arrangements proposed are robust. In the meantime, the Government is continuing to maintain and improve the quarantine station site. Indeed, I can inform the House that the reconstruction of the old hospital ward—

Mr Andrew Stoner: Point of order—

Mr Carl Scully: How rude.

Mr Andrew Stoner: You will not even listen to my point of order. You are the rude one.

Mr SPEAKER: Order! The Leader of The Nationals will address the Chair. The Minister for Police will resume his seat.

Mr Andrew Stoner: My point of order is under Standing Order 140, which relates to questions without notice. The Minister has gone up with his folder and turned to the page—

Mr SPEAKER: Order! The Leader of The Nationals is trifling with the House. He will resume his seat and stop wasting time. The Minister for the Environment has the call.

Mr BOB DEBUS: It is hardly surprising that I have one or two facts at my disposal about this matter. Anybody might have asked, and they would have got the same answer. I was telling the House that work was proceeding on the reconstruction of the old hospital ward and the accommodation building. That has been awarded to a company with a strong record in heritage works, and that work is now advancing.

RAIL SERVICES

Ms MARIE ANDREWS: My question without notice is to the Minister for Transport. What is the latest information on improvements in rail services?

Mr JOHN WATKINS: Today the Independent Transport Safety and Reliability Regulator published its third annual and first commuter survey since the new timetable started 12 months ago. More than 2,700 people were surveyed in June and July this year. The survey found that on-time running is much improved

compared with the previous two surveys. It also found improvements in other key areas, with commuter expectations increased by 68 per cent regarding punctuality, 55 per cent regarding delays and cancellations, 21 per cent in relation to information quality about delays and cancellations, and 16 per cent regarding the timeliness of information about service changes.

The proportion of train users who said their expectations were not met dropped from 59 per cent in 2005 to 38 per cent in 2006. The survey also showed there were areas where more work needs to be done, particularly with crowding during peak hours, clarity of announcements on trains, and staff visibility on platforms at night. We have plans in place to address those three areas and I will not be happy until commuter expectations are increasing across all of the indices that measure satisfaction. We will keep working hard to improve our rail services, because that is what our commuters deserve.

Questions without notice concluded.

CONSIDERATION OF URGENT MOTIONS

Federal Government Industrial Relations WorkChoices Legislation

Mrs KARYN PALUZZANO (Penrith) [3.35 p.m.]: I foreshadow that I will move:

That this House:

(1) notes the serious impact of WorkChoices on hardworking New South Wales families;

(2) supports the Government's efforts to protect New South Wales workers and their families from WorkChoices; and

(3) condemns the Opposition for yet again failing to stand up to Canberra on behalf of hardworking New South Wales families.

My motion is urgent because it is now six months since the WorkChoices laws began operating. It is important to record the anguish and insecurity these laws are causing to working families. The motion is urgent because the Leader of the Opposition has a policy of referring the fair and balanced New South Wales industrial relations powers to the Commonwealth. It is urgent because it will force low-paid workers into individual bargaining. It will make life much harder for working families in New South Wales as employment conditions will be eroded. The motion is urgent because the Opposition policy would force New South Wales small businesses into complex and costly industrial relations processes that many of them do not want.

It is urgent that the working families of New South Wales recognise that the Opposition policy is a race to the bottom. It is urgent because the Government has mounted a High Court challenge against these industrial relations changes. It is urgent to note that the Government has passed laws to protect all public sector workers and laws for injured workers. It is urgent because young workers under 18 years of age will be supported by the New South Wales laws and awards. It is urgent because workers in councils around New South Wales need to know that they will be supported. It is urgent because we need to know that the New South Wales Industrial Relations Commission will be strengthened. It is urgent that the people of New South Wales know that this Government supports workers in New South Wales.

Health Services

Mrs JILLIAN SKINNER (North Shore) [3.37 p.m.]: My motion is the more urgent because it is about life and death. It is about the Carr-Iemma Labor Government's 12 years—12 long years—spent entrenching a culture of cover-up and denial in the New South Wales health system. I want to give the House some highlights to show why my motion should be given absolute urgency. It is 10 months since Vanessa Anderson died, her family living in anguish because they have no answers—a cover-up. It is now about four weeks since Jehan Nassif died of meningococcal. An inquiry into that was promised immediately, but where is it? Nowhere—it is a cover-up. That family is living in hell.

There were delays in letting thousands of patients know that their pathology tests done in Tamworth were incorrect and that they had received the wrong treatment. It is a cover-up. The figures show that 25 per cent of emergency department patients are waiting more than eight hours for a hospital bed. These are June figures; it is now September. Where are the latest figures? It is a cover-up. The latest figures are so bad the Government will not post them. How many patients are waiting for elective surgery? Over 54,000 people are now on the waiting list. The figure would be much more, but the Government is covering it up.

Mr Matt Brown: Point of order: The honourable member for North Shore is not arguing why her matter is more urgent.

Mr Andrew Fraser: She does not have to. It is priority.

Mr Matt Brown: The honourable member is not arguing priority. She is arguing the substance of her motion. The member should be directed to argue the priority of her motion, rather than the substance of it.

Mr SPEAKER: Order! The honourable member for Kiama has raised an important point. The honourable member for North Shore has been arguing urgency and, as the honourable member for Coffs Harbour has pointed out in his interjection, the issue to be determined is priority, not urgency. I have allowed the honourable member for North Shore to continue but, as has been determined previously, she must show that her motion should have priority, not that it is more urgent than the motion of which the honourable member for Penrith has given notice.

Mrs JILLIAN SKINNER: Members of the Labor Party cannot understand that priority should be given to people's health and wellbeing. I find it extraordinary that a single member in this Chamber would suggest that priority should not be given to the thousands of people who are on the waiting list for surgery, to the thousands more who are not even on the waiting list and are not counted, to the 25 per cent of people who are waiting more than eight hours for a hospital bed, and to the families of people who have died and have not been told why.

If members do not think those issues should be debated as a matter of priority, they do not deserve to be here representing those people in their electorates. Those people want answers. The Government is so serious about covering up that it threatens doctors and nurses who speak out. It carpets people if they have the nerve to speak to the media.

[*Interruption*]

The honourable member for Auburn interjects. I am sure she is very worried about people who require health services in her electorate. She should speak in the Chamber on their behalf. Many of those people have been seen to me, as have many doctors and nurses in the system, because the Government will not give them priority.

Mr SPEAKER: Order! The honourable member for Wentworthville will come to order.

Mrs JILLIAN SKINNER: The Government does not understand the imperative of hospital care and attention for people who are being denied health services.

Mr SPEAKER: Order! The honourable member for Canterbury will come to order.

Mrs JILLIAN SKINNER: The Government refuses to come clean about the serious dilemma and chaos in our hospitals.

Mr SPEAKER: Order! The honourable member for Heathcote will come to order.

Mr Gerard Martin: Point of order: The honourable member for North Shore did not listen to the earlier ruling. Perhaps she could tell us why the Opposition, when it was in government, closed 30 hospitals and cut the heart out of country health services. The Nationals sat back and watched. So The Nationals should not try to back up the Liberal Party on this.

Mr SPEAKER: Order! There is no point of order. The honourable member for Bathurst will resume his seat. He will have an opportunity to debate this motion if it is given priority. The honourable member for Heffron will come to order.

Mrs JILLIAN SKINNER: I take it as an indication of support from the honourable member for Bathurst that he wants to debate this motion, as he should.

Mr SPEAKER: Order! The honourable member for Bathurst will come to order.

Mrs JILLIAN SKINNER: There are 250,000 people waiting for dental care. The honourable member for Bathurst protests too much. He is a goner at the next election. [*Time expired.*]

Question—That the motion for urgent consideration of the honourable member for Penrith be proceeded with—put.

The House divided.

Ayes, 48

Ms Allan	Ms Hay	Mrs Perry
Mr Amery	Mr Hickey	Mr Price
Ms Andrews	Mr Hunter	Ms Saliba
Ms Beamer	Ms Judge	Mr Sartor
Mr Black	Ms Keneally	Mr Shearan
Mr Brown	Mr Lynch	Mr Stewart
Ms Burney	Mr McBride	Ms Tebbutt
Mr Campbell	Mr McLeay	Mr Tripodi
Mr Chaytor	Ms Meagher	Mr Watkins
Mr Collier	Ms Megarrity	Mr West
Mr Corrigan	Mr Mills	Mr Whan
Mr Crittenden	Mr Morris	Mr Yeadon
Mr Daley	Mr Newell	*Tellers,*
Mr Debus	Ms Nori	Mr Ashton
Ms Gadiel	Mr Orkopoulos	Mr Martin
Mr Gaudry	Mrs Paluzzano	
Mr Greene	Mr Pearce	

Noes, 34

Mr Aplin	Mrs Hopwood	Mr Roberts
Mr Barr	Mr Humpherson	Mrs Skinner
Ms Berejiklian	Mr Kerr	Mr Slack-Smith
Mr Cansdell	Mr McTaggart	Mr Souris
Mr Constance	Mr Merton	Mr Stoner
Mr Debnam	Ms Moore	Mr Tink
Mr Draper	Mr Oakeshott	Mr Torbay
Mrs Fardell	Mr O'Farrell	Mr J. H. Turner
Mr Fraser	Mr Page	
Mrs Hancock	Mr Piccoli	*Tellers,*
Mr Hartcher	Mr Pringle	Mr Maguire
Ms Hodgkinson	Mr Richardson	Mr R. W. Turner

Pairs

Ms D'Amore	Mr George
Mr Gibson	Ms Seaton

Question resolved in the affirmative.

FEDERAL GOVERNMENT INDUSTRIAL RELATIONS WORKCHOICES LEGISLATION

Urgent Motion

Ms KARYN PALUZZANO (Penrith) [3.53 p.m.]: I move:

That this House:

(1) notes the serious impact of WorkChoices on hardworking New South Wales families;

(2) supports the Government's efforts to protect New South Wales workers and their families from WorkChoices; and

(3) condemns the Opposition for yet again failing to stand up to Canberra on behalf of hardworking New South Wales families.

Exactly six months ago today the bulk of the WorkChoices legislation came into operation. Since that time commentators, employers and employees alike have all expressed genuine misgivings and alarm about the disruptive impact of WorkChoices on the working lives of Australians. At a time when the Federal Government is talking about the importance of shared Australian values it is instructive to look back at WorkChoices. What is most striking is that so little of the Australian ethos of a fair go and equality of opportunity is to be found in the harsh and unfair legislative morass that is WorkChoices.

In WorkChoices the Federal Government has deliberately constructed a work relations scheme that removes the protection of the award safety of fair conditions for employees under workplace agreements by abolishing the no disadvantage test. This scheme is in the process of progressively dismantling the award system through so-called award simplification and rationalisation. This workplace relations scheme deprives the experienced and fair Australian Industrial Relations Commission of most of its effective dispute resolution powers in favour of alternative private mediation. This workplace relations scheme exempts 99 per cent of businesses from the coverage of unfair dismissal laws, leaving 62 per cent of all private sector workers without a remedy.

This workplace relations scheme establishes the Australian Fair Pay Commission, which is not guided by principles of fairness in its minimum wages determination. Indeed, far from upholding cherished Australian values of fairness and equality, WorkChoices can be seen as a repudiation of them. Not only does WorkChoices fail the fairness test, it fails to deliver on it is rhetorical claim to provide real choices in the workplace. There is no scope for genuine choice in the workplace where the majority of private sector employees have no choice but to accept unfair dismissal because they no longer have any effective remedy. We know this because in September 2006 the Prime Minister said, "We also support the right of the employer to decide the nature of the industrial structure."

Under WorkChoices, employers and employees bargaining together cannot choose to include certain terms in workplace agreements because they are regarded as prohibitive content. So much for employers and employees freely reaching agreement on issues that best accommodate their interests. If employees want to put into effect their majority choice to collectively bargain with a reluctant employer, WorkChoices has nothing to offer them. Clearly, the Federal Government has not established a genuine and fair system that supports choice in the workplace. That was evident at a meeting in Penrith on 17 July held by the upper House's Standing Committee on Social Issues. That committee heard evidence from people who live in Western Sydney and people who support workers and their families in Western Sydney. One of the submissions to the committee says:

> I write to the committee to express my profound concern about the impact of WorkChoices.
>
> I speak from experience and would like the committee to take note of what happened to me recently. I commenced working for a small business in 1988...

The business to which this person is referring is located in a suburb of Penrith. The submission continues:

> I worked as an Optical Dispenser assisting the principal of the business … who was an Optometrist, in all aspects of the business.
>
> The terms of my employment were governed by the Shop Employees (State) Award.
>
> I helped establish the business and played a major role in growing the business into a profitable enterprise.
>
> Around the middle of last year [my employee] employed a young receptionist in the business.

> I worked alongside the receptionist for around 6 months.
>
> In late January this year [2006] after I had returned from a period of Annual Leave, I was called into [his] office.
>
> [He] asked me whether I had heard about the changes to the employment law coming into effect in March. [He] explained that the new laws gave employers the right to terminate the employment of an employee.
>
> [He] then informed me that, "we could do things the hard way or the easy way." [He] went on to explain that "the easy way" was that I would resign my employ. "The hard way" was that he would terminate my employment, unilaterally, since the WorkChoices came into effect in March. [He] confirmed that should I choose not to resign, I would be terminated in March when the new IR laws came into effect.

This employee was distressed by what he was told. In the end he contacted his union, his employer relented, and he was offered back his job. That is just a snapshot of what can occur. The Federal Government has not established a genuine or fair system that supports choice in the workplace. Instead of good public policy and fair industrial agreements and arrangements we have an ideological exercise that overrides the rights of employees and enables a small minority of employers, such as the one I outlined, to abuse their superior bargaining power at the expense of vulnerable workers. One of the principal vehicles for this exploitation of Australian workers is Australian workplace agreements [AWAs] and their capacity to override awards and even collective agreements.

Another person who made a submission to the Standing Committee on Social Issues was an 18-year-old worker who was studying law and journalism and who worked weekends at a Westfield Penrith store. She arrived at work in July for her usual Sunday shift and without any warning she was given a contract to sign by a co-worker. Her employer had not contacted her about the contract and was not there to discuss it or to negotiate. The contract removed penalty rates for weekends and the employee was told that if she did not sign she would no longer be employed. Of course, she did not sign. However, her co-workers did because they rely on their employment, and as a result they were robbed of about $200 a fortnight. Given those examples, it is not difficult to understand why, out of a national work force of 10 million, only 500,000 employees are working under AWAs.

Despite the Federal Government's aggressive promotional efforts over the past 10 years it is not difficult to work out why people have not signed up to AWAs. They are designed to deprive workers of important conditions that are available to employees under the comprehensive New South Wales award system. In the six months since the enactment of the WorkChoices legislation important award conditions such as penalty and shift rates have been removed from employment agreements. That is not mere speculation; it was confirmed three months ago by the head of the Federal Government's Office of the Employment Advocate when he appeared before a Senate estimates committee. Every one of the approximately 6,000 AWAs entered into since the WorkChoices legislation was enacted has traded away at least one of the so-called protected award conditions, and 16 per cent have removed all award conditions, such as weekend penalty rates, shift loadings and overtime. The example I have cited is only one of many and the common threads are exploitation and unfair dealings based on and sanctioned by WorkChoices.

WorkChoices does not deliver fairness or freedom of choice in the workplace, nor does it fulfil its statutory objective of establishing and maintaining a simplified national workplace relations system. Recent events demonstrate that the Federal Government is in the business of cosmetic damage control. It has enacted regulations clarifying the operation of its bad laws, particularly in the area of agreements allowing financial penalties and pay docking. The onerous record-keeping requirements in the legislation, which impose a significant regulatory burden on employers, have also caused the Federal Government problems. Many employers have spoken to me about that issue. The New South Wales Government has taken every step available to it to preserve decent protections for all workers in this State and a fair go for all. One of those important steps is the High Court challenge. [*Time expired.*]

Mr CHRIS HARTCHER (Gosford) [4.03 p.m.]: I move:

> That the motion be amended by leaving out all words after "That" with a view to inserting instead:
>
> "this House:
>
> (1) condemns the Government for its ongoing attempts to politicise industrial relations in New South Wales and its failure to reinvigorate the New South Wales economy to provide for the creation of new jobs in New South Wales; and
>
> (2) condemns the State Treasurer, Michael Costa, for his plan to sack 5,000 front-line public servants and thousands of rear-line public servants; and

(3) condemns Federal Labor and its leader for their negative industrial relations policies, which are contrary to the best interests of workers and the national economy."

It is no surprise that we are going downhill when the honourable member for Penrith has been chosen to move this motion. Only a few weeks ago she was attracting more publicity than she has attracted in the four years since her election because the Labor Party was trying to replace her with Brandy Alexander. We have never heard a private member's statement or a dorothy dixer from her to the Premier asking that he explain the situation. The Labor Party wanted Mr Alexander because it believed he was the only person who could hold that seat, that the honourable member for Penrith was a liability and that she had to be dumped.

Mr Matt Brown: Point of order: I thought we were debating WorkChoices. All we have heard so far from the honourable member for Gosford is an attack on the honourable member for Penrith. I ask you to direct him back to the debate and to get out of the gutter with these sleazy comments.

Mr ACTING-SPEAKER (Mr John Mills): Order! I am sure that I do not need to remind the honourable member for Gosford that he must speak either to the motion or to his amendment.

Mr CHRIS HARTCHER: With those few preliminary words, which I am sure all honourable members understand, I will move on to the motion. The honourable member wants to talk about the serious impact of WorkChoices on hardworking New South Wales families. She produced no evidence; she was not even prepared to name the people who she alleged had written to her about their terrible problems. The Minister for Industrial Relations, Mr Della Bosca, has told us that the Government's help line has received 110,000 calls. How many of those inquiries have been referred to Canberra? Those inquiries have been overwhelmingly from people simply asking about what will happen to them under the WorkChoices legislation. In 99.9 per cent of cases, it will have no effect. The other large groups of people making inquiries are union officials and Australian Labor Party staffers, who have been ringing up to boost the numbers and to spread the notion that a crusade is being waged in New South Wales to reform the WorkChoices legislation.

There is no concern anywhere about the WorkChoices legislation. The more people are aware of it the less they are concerned about it. The figures released after the legislation had been in force for six months tell the story. The Prime Minister referred to a report from the Australian Bureau of Statistics on 11 August estimating that 159,000 jobs had been created since the legislation was enacted in March, including 51,000 in July, and stating that the jobless rate had fallen to 4.8 per cent in July. That is the lowest figure since November 1976. Since the enactment of the legislation 159,000 jobs have been created and we have experienced record joblessness.

Mr Kerry Hickey: Point of order: It is clear that the honourable member is raising all sorts of spurious arguments. Jobs have been created because WorkChoices has led to people being sacked unfairly and people who have to earn money despite the much lower rates have taken their jobs.

Mr ACTING-SPEAKER (Mr John Mills): Order! The Minister is now debating the issue. He can seek the call later if he wishes to contribute to the debate. The honourable member for Gosford has the call.

Mr CHRIS HARTCHER: I am sure the Minister will make a magnificent contribution. The honourable member for Charlestown interjected last week and we talked about the great Labor dynasties in the Hunter.

Mr Kerry Hickey: Point of order: This has nothing to do with the amendment or the motion before the House. I ask you to call the honourable member back to the motion or the amendment.

Mr ACTING-SPEAKER (Mr John Mills): Order! I uphold the point of order. The honourable member for Gosford should speak to the motion or to the amendment.

Mr CHRIS HARTCHER: I will if the honourable member for Charlestown does not interject, which provokes me—

Mr ACTING-SPEAKER (Mr John Mills): Order! The honourable member for Gosford is not entitled to use red herrings.

Mr CHRIS HARTCHER: An analysis of the figures released in August by the Australian Bureau of Statistics shows that the WorkChoices legislation has increased the number of jobs and lowered the level of

industrial disputation. Not only is the 4.8 per cent figure for unemployment the lowest since November 1976—that is 30 years—but the number of working days lost due to industrial disputation also fell to 27,000 in the June quarter. That is the lowest level ever and it is a credit to the Howard Government. WorkChoices is a refinement of the reforms introduced in 1996. In the June quarter of 1996, 386,000 working days were lost. Industrial disputation has fallen to its lowest level on record. Since WorkChoices was introduced 1,350 jobs have been created every day. The Chief Executive Officer of the Australian Business Limited State Chamber, Kevin MacDonald, said:

> These figures are a vote of confidence in the common sense of Australian workplaces and a vote of confidence in WorkChoices. Significantly, 59% of that disputation occurred in NSW …

Whilst New South Wales got a disproportionate share of jobs because the economy is so poor here, it still had the highest number of industrial disputes because it is in New South Wales that the Government is making every attempt to politicise the WorkChoices issue. On the other hand, Victoria, which has operated under a single system for many years, accounted for only 28 per cent of industrial disputation. It is clear that the Labor Party has lost the plot as far as WorkChoices is concerned. It is prepared to spend vast amounts of public money on a public relations campaign and a High Court challenge, and it is prepared to waste the time of the House constantly by bringing in its mates from Marrickville Council. One wonders if those guys from Marrickville Council were on the payroll for this afternoon, or had they given up their own time to attend Parliament? I am sure the ratepayers of Marrickville would be interested to find out who was paying the wages of that gang from Marrickville Council that came in this afternoon. A recent editorial on Mr Beazley in the *Australian* said:

> After demonstrating a degree of nerve in recent months in ditching the disastrous Medicare Gold, Mark Latham's private schools hit list and opening up the hopelessly outdated three uranium mines policy to debate, Mr Beazley has unwisely opted for populism over forging an agenda that is good for the nation. His Sunday address to the NSW Labor Party conference contained little that could be described as good policy; instead of continuing his tentative steps back towards the mainstream of Australian politics.
>
> Ignoring former Labor prime minister Paul Keating's admonition not to turn back to "the old anvil", the Opposition Leader caved in to union demands …

Paul Keating said, "Don't go near it, stay away from it, it is not a winner". WorkChoices is not having a bad impact: it is creating 1,350 jobs a day and it is resulting in the lowest level of industrial disputation in Australian history. Australia now has the lowest unemployment level since November 1976. WorkChoices has achieved an enormous and beneficial result for the Australian economy. But the Australian Labor Party is running scared on WorkChoices.

Mr Paul McLeay: Point of order: My point of order relates to tedious repetition and the garbage that this member is speaking.

Mr ACTING-SPEAKER (Mr John Mills): Order! The speaking time of the honourable member for Gosford has expired.

Mr MATT BROWN (Kiama—Parliamentary Secretary) [4.13 p.m.]: I am pleased to support the motion moved by the honourable member for Penrith. I oppose the amendment moved by the honourable member for Gosford. After listening to his unintelligible tirade, one would be forgiven for thinking that he totally supports WorkChoices, as all members of the Opposition do. The Coalition speaker leading in this debate speaks totally in favour of WorkChoices. It makes one wonder whether members of the Opposition will be committed to that policy should they ever be elected to government—and judging by what the honourable member for Gosford said, they will be committed to it. That means the Coalition will hand responsibility for all industrial relations laws, including those relating to New South Wales public sector workers, to Canberra. If it then says, "No, we will keep protecting New South Wales public sector workers", its whole argument makes no sense at all.

Either WorkChoices is good for New South Wales or it is not. We on this side of the House say it is not. We are clear about protecting New South Wales' public sector workers, which is what we are doing. We have mounted a High Court challenge to protect those in the private sector. The Liberal Party of this State wants to hand everything over to Canberra. The Liberal Party should start protecting the workers in New South Wales. It is not just workers who do not like this law; many employers do not like it either. Employers and employees have struggled enormously in the six months following the implementation of WorkChoices in what is a challenging industrial climate. I am sorry to say that it is unlikely that they will enjoy any relief over the next six

months, with the gloss of the WorkChoices sales blitz further tarnished by prolonged confusion and added complications.

Beginning this week the immediate challenge for New South Wales businesses will be the laborious new record-keeping requirements due to come into play after a six-month "honeymoon" period. However, last week the Federal Government released another round of amendments to the WorkChoices package, extending the transitional phase by an additional six months. When the record-keeping obligations were first unveiled six months ago, business groups predicted that there would be widespread compliance chaos. In the lead-up to their planned implementation, business leaders candidly admitted that businesses remained unprepared for the added red tape burden.

Mr Andrew Constance: Point of order: My point of order rates to relevance. Why does the honourable member for Kiama not tell the Parliament what he said to the—

Mr ACTING-SPEAKER (Mr John Mills): Order! There is no point of order. The honourable member for Bega will resume his seat.

Mr MATT BROWN: They were facing hefty financial penalties for non-compliance ranging from $550 for individuals and $2,750 for a company. The amendments acknowledge that the new and onerous record-keeping requirements are a major concern for employers and a dead weight on business productivity. As the impact of WorkChoices is fully realised, businesses will face mounting confusion, increased complexity and a very uncertain industrial climate. The results of the MYOB small business survey released in early August found 40 per cent of those surveyed had a poor understanding of the legislation. The New South Wales Government believes that effective compliance and enforcement is necessary to ensure workers receive their fair entitlements and businesses compete on a level playing field.

The Federal Government removed from the Australian Industrial Relations Commission its role of determining a fair wage that is adjusted to incorporate cost of living increases. Why? Because the Federal Government consistently opposed the pay increases granted by the commission over the past decade. It believes the incomes of working families are too high. Shame on the Federal Government! Australian workers on minimum rates of pay would have received at least $70 per week less if the Federal Government had been successful. The Federal Minister for Workplace Relations, Kevin Andrews, is on record with that observation. Clearly, the intention of the Australian Fair Pay Commission is to reduce real wages. And how does the new process operate? If you live on the South Coast, you are treated with utter contempt! Again the honourable member for Bega and the honourable member for South Coast are not standing up for working families on the South Coast. Due of our industrial relations system New South Wales has lost few hours in productivity because of disputes. One only needs to look at BlueScope. I support the motion of the honourable member for Penrith.

Mrs JUDY HOPWOOD (Hornsby) [4.18 p.m.]: I support the amendment of the honourable member for Gosford. At the outset I point to the hypocrisy of Government members. I am advised that a member from the other side stated that he supported WorkChoices: he was the owner of a business and he liked the opportunity of being able to deal with his employees. While I am talking about hypocrisy, I draw attention to the word "protect" in the motion. The senior nurse managers at Hornsby hospital, who have been moved aside to make way for more generic managers, are looking to the New South Wales Government for protection. Two experienced nurse managers took redundancy and walked out, because the Government put them aside in a restructure of the area health service. The hypocrisy of Government members is breathtaking.

At the New South Wales Nurses Association conference it was a case of protecting the Minister. Senior nurse managers had already received their letters. In the first instance, one nurse from the maternity area, one nurse from the surgery-operating theatre area and one nurse from the rehabilitation and aged care area received letters. When the surgeons met with the general manager of Hornsby hospital they were told, "Sorry, we've made a mistake. We didn't mean to offer the senior nurse manager the opportunity to take redundancy and for her to be moved from her position as senior nurse manager in the operating theatre and recovery room." That senior nurse manager was then reinstated. However, the other two senior nurse managers were left out to pasture.

The Minister's appearance at the conference on the Thursday morning was completely protected. Concerned nurses, union organisers and others, and workers across the area health service, received an indication from head office in Gosford that the original paperwork contained a mistake. Indeed, they were given

a document to read that indicated that the senior nurse managers had been plonked straight back into their roles. Then on the Friday, the day after the Minister's appearance at the conference, they were told, "Sorry, there was a typo. We're back to square one again." The Government cannot say anything about the WorkChoices legislation. It has spuriously passed legislation allegedly to protect workers in New South Wales, yet it cannot protect senior front-line nurses.

The Government has moved aside front-line nurses in an attempt to gain power or control, or to save money, whatever the reasons. The nurses are unclear about the reasons. Once again the Government has put in jeopardy the retention of valuable nurses in the workplace and failed to attract nurses to work in New South Wales hospitals because there is no career path for them. Nurses reach a certain level and then must vie with other generic managers who might want to reach the same level in the hierarchy for a position that is directly relevant to patient care. Nurses want the ability to refer to nurses in a line of command. They do not want to compete against people managing a computer company or holding a managerial position in another industry who might apply for these senior positions. Nurses want a senior nurse to whom they can refer, and patients deserve to have senior nurses to whom they can refer.

The Government is extremely hypocritical; it says one thing but does another. It must wake up to itself in terms of the impression it gives the workers of New South Wales. Nurses are hard working. The motion of the honourable member for Penrith refers to "hardworking New South Wales families". Nurses also have families. What about the families of senior nurse managers who have been moved aside? What about future stability for those senior nurse managers? They received a redundancy package and walked out the door. The Government, which purports to value workers, placed no value on these senior nurse managers. Members opposite should hang their heads in shame. The cries from New South Wales nurses—particularly those at Hornsby hospital—about the area health service restructures is consistent. In terms of the scenario I outlined, Government members are an absolute disgrace. They should not be pontificating about the Coalition's policies when they cannot even get their own policies right. They are not serving the interests of the people of New South Wales.

Mr MATTHEW MORRIS (Charlestown) [4.23 p.m.]: We must focus on the issues of this debate.

Mrs Judy Hopwood: This is the issue. It is about senior nurse managers.

Mr MATTHEW MORRIS: This is not about the natural attrition of 5,000 employees under the Government or the sacking of 29,000 public servants under the Coalition's proposal. This is about WorkChoices and its impact on the people we represent and the hardworking families of New South Wales.

Mrs Judy Hopwood: Point of order: The honourable member for Charlestown is misrepresenting what I said. This is about senior nurse managers who have been pushed aside; it is not about sackings. The honourable member is misleading the Parliament.

Mr ACTING-SPEAKER (Mr John Mills): Order! There is no point of order. The honourable member for Hornsby will resume her seat.

Mr MATTHEW MORRIS: We cannot deny that the Federal Government's WorkChoices legislation, publicly supported by the Leader of the Opposition and his colleagues, is hurting New South Wales families. There is ample evidence to demonstrate that time and time again. There can be no doubt that WorkChoices represents a fundamental shift of balance: the axis has been tilted in favour of the employer. WorkChoices undermines security of employment and inappropriately transfers the burden of risk to the worker rather than the person for whom the work is performed. Like WorkChoices, the Independent Contractors Bill tilts the employment balance, encouraging disgraceful contract arrangements that remove basic entitlements such as minimum rates of pay. Are members opposite concerned about that? They are not concerned about long service leave, superannuation, workers compensation, sick leave, and public holidays. They have nothing positive to say in defence of the working-class people of New South Wales.

While Kevin Andrews claims that Australian workplace agreements [AWAs] are a crucial component of the modern flexible work force, many studies indicate that individual agreements not only deprive employers and workers of choice, they strip away benefits and attack the conditions of the low paid. The honourable member for Hornsby should be concerned about the low-paid constituents in her electorate. She does not give a hoot! Grubby Opposition members know what is happening across the New South Wales work force but they do

not have the guts to stand up to their colleagues in Canberra, who are trying to pull apart the working conditions and entitlements of good, working-class people across the State.

Mr ACTING-SPEAKER (Mr John Mills): Order! The honourable member for Hornsby will cease interjecting. She is becoming most disorderly.

Mr MATTHEW MORRIS: Members opposite should be representing their constituents, but they do nothing. No Opposition member has provided a positive contribution in defence of WorkChoices or on behalf of their constituents who are being mistreated and abused by it. Let me cite an example. A young lady in my electorate worked for Subway. It is a shame the honourable member for Davidson is not here because perhaps rather than ringing for pizzas he could ring for a spicy meatball roll. Subway is a classic example. As soon as the Federal Parliament passed the WorkChoices legislation Subway incorporated itself. For what purpose? To operate under WorkChoices, which has had a heavy impact on its employees.

This young lady worked for Subway for only four days. Why? Because, unfortunately, she took ill after a few days, through no fault of her own. When she rang up to advise that she could not attend work on a particular day she was told, "Don't bother coming back. We're not interested." Coincidentally, to my knowledge Subway still has not paid her for the days she worked. A letter of demand was sent to Subway but Subway said, "Go jump. We are not entertaining this. You must prove that you worked at this establishment." It is ridiculous, particularly for the most vulnerable, our young people. Despite the rhetoric of members opposite, the Government is all about protecting working-class people and their rights and entitlements in the workplace.

Here is another example. A student who was successful in a job interview was offered an AWA that supposedly offered better conditions than the shop employees award. The AWA contained no penalties and a flat rate that appeared to be less than the award. However, it is fairly obvious that students are unlikely to complain because they are concerned about job security. Young people in that situation are not confident and do not have the support of industrial relations laws and the Government to take on their employer. It is a disgraceful situation. I call on Opposition members to do the right thing and represent their constituents. [*Time expired.*]

Mrs KARYN PALUZZANO (Penrith) [4.28 p.m.], in reply: I will not support the amendment moved by the honourable member for Gosford. In saying that—

[*Quorum formed.*]

In opposing the amendment, of course we are going to politicise WorkChoices because we want the people of New South Wales and their families to understand the difference and to vote for the motion. In Penrith on Saturday the Leader of the Opposition said he was going to rip and strip the public service on day one. We have not heard one word of support for workers in Penrith from the Liberal candidate for Penrith. There is a difference between natural attrition of 5,000 and the ripping and stripping of 29,000 workers. The New South Wales Government is absolutely determined to do what it can to uphold this State's fair and balanced industrial relations system, workplace laws that enshrine the very important Australian value of the right to a fair go.

The New South Wales Government's efforts to date have been: rejecting formal requests by the Federal Government that New South Wales refer its industrial powers; challenging the constitutional validity of the laws; and shielding 189,000 public sector workers, such as nurses, ambulance officers, TAFE teachers and bus drivers from the divisive and unbalanced WorkChoices legislation. The Government has committed State-owned corporations not to use WorkChoices to cut pay and conditions; and it has amended the Industrial Relations Act to allow the Industrial Relations Commission of New South Wales to conciliate and arbitrate disputes where unions and employers agree.

Mr Daryl Maguire: Point of order: In replying to debate, the honourable member must reply to the issues that were raised and not introduce new material. I ask you to have her reply to the issues raised by members on this side of the House.

Mr ACTING-SPEAKER (Mr John Mills): Order! I draw the attention of the honourable member for Penrith to the matters raised by the honourable member for Wagga Wagga.

Mrs KARYN PALUZZANO: The Government announced proposals to protect in excess of 150,000 young people under the age of 18 who are in formal employment by legislating that wages and conditions for

young workers must be at least equal to New South Wales awards and legislation, and providing a right to protection against unfair dismissal. I also note that the New South Wales Government has established an inquiry, which visited Penrith. Not only did a member of the Opposition read a book during the course of the hearing but one member of the committee walked out as witnesses were giving evidence. The Government also established the Fair Go Advisory Service, and is developing the Compare What's Fair web site to assist workers since March 2006. What is the Coalition's position on WorkChoices? It is inconsistent and does not make sense. In fact, the Leader of the Opposition is quoted as being in "lock step" with the Federal Government on WorkChoices. He stated:

> … we will transfer the bulk of our IR powers to Canberra.
>
> There is no point for the Iemma Government to continue to hold on to the New South Wales industrial relations system [except for the public sector Opposition commitment]. The High Court has confirmed that this is a Federal Government matter and New South Wales has no meaningful role to play in the area.

The Coalition's position on WorkChoices is inconsistent and does not make sense. [*Time expired.*]

Question—That the words stand—put.

The House divided.

Ayes, 51

Ms Allan	Mr Greene	Mrs Paluzzano
Mr Amery	Ms Hay	Mr Pearce
Ms Andrews	Mr Hickey	Mrs Perry
Mr Barr	Mr Hunter	Mr Price
Ms Beamer	Ms Judge	Ms Saliba
Mr Black	Ms Keneally	Mr Sartor
Mr Brown	Mr Lynch	Mr Shearan
Mr Campbell	Mr McBride	Mr Stewart
Mr Chaytor	Mr McLeay	Mr Torbay
Mr Collier	Mr McTaggart	Mr Tripodi
Mr Corrigan	Ms Meagher	Mr West
Mr Crittenden	Ms Megarrity	Mr Whan
Mr Daley	Mr Mills	Mr Yeadon
Mr Debus	Ms Moore	*Tellers,*
Mr Draper	Mr Morris	Mr Ashton
Mrs Fardell	Mr Newell	Mr Martin
Ms Gadiel	Ms Nori	
Mr Gaudry	Mr Orkopoulos	

Noes, 28

Mr Aplin	Mr Humpherson	Mrs Skinner
Ms Berejiklian	Mr Kerr	Mr Slack-Smith
Mr Cansdell	Mr Merton	Mr Souris
Mr Constance	Mr Oakeshott	Mr Stoner
Mr Fraser	Mr O'Farrell	Mr Tink
Mrs Hancock	Mr Page	Mr J. H. Turner
Mr Hartcher	Mr Piccoli	
Mr Hazzard	Mr Pringle	*Tellers,*
Ms Hodgkinson	Mr Richardson	Mr Maguire
Mrs Hopwood	Mr Roberts	Mr R. W. Turner

Pairs

Mr D'Amore	Mr George
Mr Gibson	Ms Seaton

Question resolved in the affirmative.

Amendment negatived.

Motion agreed to.

LEGISLATIVE COUNCIL VACANCY

Joint Sitting

Mr SPEAKER: I report the receipt of the following message from His Excellency the Lieutenant-Governor:

J. J. SPIGELMAN
LIEUTENANT-GOVERNOR

Office of the Governor
Sydney 2000

I, the Honourable James Jacob Spigelman, AC, in pursuance of the power and authority vested in me as Lieutenant- Governor of the State of New South Wales, do hereby convene a joint sitting of the Members of the Legislative Council and the Members of the Legislative Assembly for the purpose of the election of a person to fill the seat in the Legislative Council vacated by the Honourable Patricia Forsythe, and I do hereby announce and declare that such Members shall assemble for such purpose on Thursday the twenty-eighth day of September 2006 at 11.30 am in the building known as the Legislative Council Chamber situated in Macquarie Street in the City of Sydney; and the Members of the Legislative Council and the Members of the Legislative Assembly are hereby required to give their attendance at the said time and place accordingly.

In order that the Members of both Houses of Parliament may be duly informed of the convening of the joint sitting, I have this day addressed a like message to the President of the Legislative Council.

FAMILY DEBT AND INTEREST RATES

Matter of Public Importance

Ms TANYA GADIEL (Parramatta) [4.45 p.m.]: My matter of public importance is family debt in New South Wales. Those opposite continue to misrepresent economic statistics and talk down the New South Wales economy. The New South Wales economy is strong and our unemployment levels are the lowest in 25 years. International agencies have recognised the strong financial position of New South Wales by awarding it the highest credit rating of triple-A. New South Wales' performance has remained fairly solid in absolute terms, as reflected in low unemployment rates, high per capita income and a strong business investment performance. However, hardworking families in the electorate of Parramatta and in New South Wales generally are hurting as a result of higher interest rates and high petrol prices.

John Howard boasts—fraudulently—about interest rates being lower under the Coalition compared to Labor. Honourable members opposite remain silent on interest rates. As we all know, interest rates have risen seven times since 2002. Following Peter Costello's interest rate rise last month, families in Parramatta with a new mortgage on a median-priced house of $430,000 now have to pay around $63 in extra interest repayments each month. This is in addition to the $63 extra a month they are already paying from May's interest rate rise. Local property owners should brace themselves for a third interest rate rise before the end of the year, as independent commentators are predicting another rate rise.

Recently the Prime Minister refused to take any responsibility for the significant jump in mortgage repossessions. This increase arises from lenders taking legal action against borrowers who default on mortgages that are secured by property. Repossessions occur when families can no longer meet their mortgage repayments and lenders take over the homes and sell them in what is called a mortgagee sale. In most instances, families are left owing banks a significant amount of money. Rather than put up his hand for some responsibility the Prime Minister blamed very low interest rates for the massive increase in mortgage defaults.

High household debt means households are now much more sensitive to interest rate rises than they have ever been before. That is why mortgage repossessions have been rapidly rising since interest rates started rising in May 2002. Homeowners are now paying a higher proportion of their income in mortgage interest repayments than ever before. According to the Australian Bureau of Statistics, the interest on household debt as a proportion of gross disposable income has skyrocketed from 5.3 per cent in 2002 to 9.3 per cent in 2005. There is a direct correlation between the increase in interest rates and people being unable to meet their mortgages. The figures are very clear. The Prime Minister needs to accept that interest rates are hurting, and he needs to do all he can to ensure we do not see another one by the end of the year.

Figures released by the New South Wales Supreme Court earlier this month show repossessions by financial institutions climbed to 4,873 in the 12 months to March—a 59 per cent increase over 2004. This figure is more than double the number three years ago. The Opposition may want to take note: the present repossession rate is more than double the level when interest rates were at their highest, 17 per cent, under the Hawke-Keating Government. Clearly, the climbing rate of home repossessions is due to rising interest rates and broken promises by the Howard Government. That is the terrible consequence of John Howard's interest rate policies. We will continue to put the case to Canberra to ease off on its interest rate policy.

In addition, the cost of petrol has had a significant impact on household budgets. This issue is timely with a long weekend and school holidays on our doorstep. Families now have to pay more to take a driving holiday with their children. This week the Minister for Regional Development wrote to the Prime Minister urging him to give powers to the Australian Competition and Consumer Commission [ACCC] to regulate the oil companies in the lead-up to the holiday weekend. We know that there is traditionally a hike in petrol just before a holiday period. The Commonwealth Government should make sure the ACCC is keeping an eye on petrol prices this coming long weekend. Just before the June long weekend petrol prices went up 10¢ a litre. The New South Wales Government will keep an eye on the issue this weekend.

Mr Howard still has not bothered to respond to the New South Wales Government's concerns about petrol pricing and its impact on regional communities. While petrol prices have dropped in Sydney, falling to less than $1.11 a litre, families living in the Snowy region are paying $1.35 and $1.33 a litre in Bourke. The shadow Minister for Finance talks down the New South Wales economy in an attempt to shift blame from the Federal Government's mismanagement of the economy. Recently her local newspaper, the *Southern Highlands News*, revealed that Bowral, Mittagong and Moss Vale were among the top 10 towns in the State for the highest petrol prices. The revelation that Southern Highlands is one of the areas in the State with the highest petrol prices comes as no surprise to local families and businesses. Once again the member for Southern Highlands and the Liberal-National Coalition have been silent on this issue. They constantly fail to stand up to Canberra and protect consumers from seesawing petrol prices.

Parramatta families continue to be ripped off under the Commonwealth's GST arrangements. Forecasts show that New South Wales taxpayers will get back only $11 billion in GST grants this year, despite generating around $13.5 billion in GST revenue. Under these arrangements every Parramatta man, woman and child is paying an average of $372 to the larger States, such as Queensland and Western Australia. In fact, every Parramatta family now pays an average of $960 a year to other States. Unfortunately, the Leader of the Opposition and his colleagues refuse to stand up to Canberra and help us fight for a fairer share. They are out of touch, and the hardworking families of New South Wales are the losers.

Earlier this month the Prime Minister told a Liberal Party function that the New South Wales Government was responsible for the increasing burden being shouldered by mortgagees. That is despite increases in interest rates seven times since 2002—including two interest rate rises this year—and a further rise expected this year. According to John Howard New South Wales is spending too much on infrastructure. I make no apology for the fact that the Iemma Government is spending $10 billion a year on infrastructure. We are spending $27 million a day on roads, schools, hospitals, electricity, water and the rail network. We are also spending record amounts on front-line services, such as hospitals, schools and police, while remaining financially responsible and maintaining our triple-A credit rating. Clearly, John Howard will say anything in an attempt to sheet home the blame for interest rate rises to anyone but himself.

There are 26,600 blocks of land in Sydney already zoned, serviced and ready for development. In fact, 5,700 have passed through all planning and development approvals and could be made available for sale tomorrow by developers. The only thing stopping that is John Howard's interest rate rises. The Leader of the Opposition stands condemned for his failure to stand up to his mates in Canberra. Instead of trying to do something to stop his Federal Coalition cronies from ripping off the people of New South Wales, he pathetically tries to sheet home the blame for increases in family debt onto the State Government. The Premier, in his recent Light on the Hill speech, said:

> In this State—perhaps more than any other—the most vulnerable in our community are counting on us.
>
> Because they are the first people the Tories will trash, and only we stand in the way.
>
> What separates us is not just a margin in parliament.
>
> It's the things for which we stand.

The Leader of the Opposition's reckless, unfunded and uncosted $25 billion spending spree will bankrupt the State, place our triple-A rating under threat and put more strain on young families across Western Sydney.

Mr WAYNE MERTON (Baulkham Hills) [4.55 p.m.]: Government members have taken the bait again. They have fallen for the old three-card trick. They blame family debt in New South Wales on the wicked Howard Government's high interest rates. Either they have been around for only a short time or they have a poor memory. I will give them the benefit of the doubt on both counts. Interest rates under the present Federal Government are lower than they have been for many years. Let us look at the situation. The Government members speak about the good old days when a solid Labor Government was in office under former Prime Ministers Bob Hawke and Paul Keating. They were great years for many Labor supporters. However, the interest rates under those Governments averaged 12.75 per cent and peaked at 18 per cent. Rounded off, the average interest rate was 13 per cent or 12 per cent—I will settle for either—and it peaked at 18 per cent plus. Under the Howard Coalition Government interest rates have averaged 7.25 per cent. That is a difference of five or six percentage points. Yet Government members have the gall or the naiveté to say that family debt in New South Wales has been caused by high interest rates.

The Government members said that John Howard used words to the effect that interest rates would not increase. He never said that. He said that under a Coalition government interest rates would always be lower than they would be under a Labor government. He has been proven right. I will say it again for those who do not understand: the interest rate average was 13 per cent under the Hawke and Keating Labor Governments and 7 per cent under the John Howard Coalition Government. The Government's argument about interest rates is incorrect. The reason that New South Wales families are doing it tough—and they are—is because of this Government's financial mismanagement, bungling and ineptitude. The Government has wasted money. During the recent property boom the Government received an unexpected $5 billion or $6 billion from stamp duty. It was like winning Lotto 40 times, perhaps 100. The figure is too large to comprehend.

Mr Daryl Maguire: An extra $1.5 billion per year.

Mr WAYNE MERTON: That is right, $1.5 billion extra per year every year. The Government received $10 billion from GST. As I said the other day and I will say again, Bob Carr could not get the pen out of his pocket quick enough. He was like a life insurance salesman ready to sign up a customer. He signed up for the deal. There is no doubt in the world that families in New South Wales are in debt. The problem is accentuated in New South Wales for one obvious reason: property prices. One of the reasons property prices are dearer in New South Wales is a shortage in land supply. In 1988-89, when the Coalition Government was in office, 10,000 lots were available for building. People had a choice of 10,000 lots. At present, 2,780 are available. One would have to be blind not to see that the Government is now offering one-third the number of lots for home building than were available during the Coalition era of 1988-89.

This Government boasted about those 3,000 lots when in reality it should have apologised for reducing available land by two-thirds. The situation gets even worse. When land is available the costs and charges in New South Wales are such that they prohibit anyone from developing the land. Minister Sartor stood in this Chamber and said that additional levies and contributions would be payable over and above normal development costs, for example section 94 costs, water, electricity, roads, and all those kinds of things. So property developers will have to pay about $33,000 per lot, which is the equivalent of three-quarters of the cost of providing infrastructure to new suburbs.

People who buy a home in a new suburb will contribute three-quarters of the cost of providing roads and services. The Government received $5 billion from the recent property boom but it has nothing to show for it. What is the Government's overall financial situation? It is heading towards negative growth. The Government is in a financial mess. It has a budget deficit of about $700 million or $800 million. We have debt in New South Wales because of the Government's ineptitude, its bungling, and its mismanagement. What do other organisations have to say about this? Mr Wayne Gersbach from the Housing Industry Association of New South Wales, when referring to the $33,000 levy introduced by Minister Sartor, said:

> These charges are far in excess of anything levied in other capital cities. Melbourne, for instance, is capped at $8,000 even though it does not have the added impost of local government charges that exist in New South Wales. Other cities simply do not charge them, taking the sensible course of funding long-lived infrastructure from a broader tax base.

He went on to say:

> This Government is playing a dangerous game, pushing the housing market to the brink of unaffordability to extract the last dollar of revenue. It is not getting the balance right and it is courting disaster. The plain fact is that total tax from land and housing New South Wales is way too high. We have one of the most efficient and competitive residential building industries in the country but it cannot operate effectively under these conditions, and markets in other States are beginning to look very attractive to some of the big players.

The Government has made housing unaffordable. Over the last three or four years it has forced up the price of land in north-western Sydney by about $200,000 a block. People now have to borrow more, and that leads to increased mortgage repayments. People are borrowing more because this Government is not releasing land, and that is increasing the cost of available subdivided land. People are now paying enormous mortgages. I am surprised that Government members want to talk about family debt in New South Wales as this Government has done nothing to alleviate it. All it has done is cause people to go into debt.

Mr Paul McLeay: Why do you say that?

Mr WAYNE MERTON: I am glad the Parliamentary Secretary asked me that. If he listened to my contribution he might learn something. New South Wales needs a rescue package; it needs an economic rescue plan. The State continues to flat-line, with growth going down to almost zero—0.2 per cent for the last quarter. We are facing stagnation but nothing is happening because of the Government's dud economic policies. We are still waiting for the north-west rail link that was promised in 1998 by the Hon. Carl Scully.

Mr Paul McLeay: What has been done now?

Mr WAYNE MERTON: The Parliamentary Secretary appears to be on my side. The Government released a map and drew some lines on it, which did not cost it much money. However, that rail line, which should have been finished in 2010, has not yet been started. It will probably be finished in 2017. After the next State election the Coalition will get rid of bureaucratic waste and duplication. It will free up funds for services where they are needed. It will get rid of backroom bureaucrats. Front-line essential support staff will be exempt from the recruitment freeze. The Coalition will save money by putting the savings into services—hospitals, schools, police and all those areas in which this Government has failed dismally.

People on the ground will provide the community with services. The senior executive service will be reduced by 25 per cent and Cabinet Office, which has an annual budget of $37.6 million, will be abolished. The Opposition will also reduce the size of the Premier's Department, which has an annual budget of $148.7 million. Debt is a problem in New South Wales because the Government has been a dismal failure. It has led people into mortgage traps because of its restrictive land release policies and its infrastructure costs for developing land. It is responsible for harming these people, not the Federal Government. Under the Federal Government, interest rates are at a record low. Under this Government's administration they are at a record high.

Mr GEOFF CORRIGAN (Camden) [5.05 p.m.]: I listened with great interest to the issues raised by the honourable member for Baulkham Hills. I would like to deal with them but I do not have the time to do so.

Mr Paul McLeay: It isn't your job to do that.

Mr GEOFF CORRIGAN: As the Parliamentary Secretary said, it is not my job to do so. Interest rates may be lower but net family debt per household is higher.

Mr Wayne Merton: It is because of your policy.

Mr GEOFF CORRIGAN: No, it is not. In the late 1990s Peter Costello changed the policies relating to capital gains tax and that caused the influx.

Mr Wayne Merton: The Labor Party introduced capital gains tax.

Mr GEOFF CORRIGAN: Peter Costello made the changes. Raising a family, buying a home, educating the kids, maybe getting back into the education system, setting up a business, getting a reliable job with good conditions and fair rates of pay, or moving through a career have never been easy. A good government, like the successful Labor governments that New South Wales has enjoyed and continues to enjoy, makes it easier for people to buy a home, educate their kids, get and keep a job, or set up and run a business. It

does not make these already difficult achievements harder. That is why New South Wales has the most generous package of first homeowner grants and assistance in the country. That is why this year's State budget contained record spending on health, education, transport and police.

That is why in just 13 months the Iemma Labor Government has cut five State taxes to encourage investment, jobs and growth. That is why the New South Wales Government has opposed and will continue to oppose the Federal Government's draconian WorkChoices policies. And that is why, when I look around my electorate of Camden, I am extremely concerned about the impact of the Federal Government's policies on local families. Whether it is imposing the rule of the jungle on workplaces, crippling family budgets through higher interest rates and increased fuel prices, or neglecting urban infrastructure, family life is getting tougher under John Howard. The Premier recently touched on these issues in his "Light on the Hill" speech in Bathurst when he said:

> In John Howard's "relaxed and comfortable" Australia, we have become time poor, and our closest relationships are bearing a heavy price for our economic success.
>
> Take one simple example.
>
> In Chifley's day, families sat down for dinner together around the table: kids and parents talked to one another about how the day went and what happened at school.
>
> Today it's more likely to be take-away in front of the TV and not always at the same time.
>
> We may no longer eat "meat and three veg" but the concept of families eating a proper dinner together is one I'd like to protect and encourage, even if it's just a weekly Sunday roast.

The Federal Government's industrial relations changes, supported by the Leader of the Opposition, have impacted heavily on New South Wales working families. WorkChoices has cut working conditions and rates of pay for many families. It has instilled a "sign it or else" environment in the workplace. It has removed the right of workers to challenge their dismissal when they have been sacked unfairly. Concerns over job security have increased dramatically since these laws came into place six months ago. Working families now have less choice about working longer hours; they have less choice about when they can take holidays or about working nights or weekends; and they have less choice about the time they can spend with their families. So there is less choice and more cost.

The inflationary policies of the Howard-Costello Government are crippling families in suburban Sydney. In Camden it is estimated that owners with a mortgage on an average priced freestanding home worth $360,000 are now around $53 a month worse off because of the 2 August rate rise. That is on top of the $53 a month they were slugged by the May rate rise. That is an additional $1,272 a year that families have to find on top of rising petrol prices, putting food on the dining room table, the costs associated with child care and putting the kids through school, and the myriad other pressures on the family budget. The financial markets expect another interest rate rise before the end of the year. That means that Camden families could be $1,902 a year worse off than they were at the start of 2006.

Who is responsible for the fact that thousands of extra dollars now need to be squeezed out of Camden family budgets? According to the Federal Government, it is not responsible. First it was Cyclone Larry, then it was petrol prices, then it was the New South Wales record investment in infrastructure, and then it was State government planning policies. Apparently Peter Costello and John Howard's policies have nothing to do with interest rate rises. So while the Prime Minister and the Treasurer were running around blaming everyone else but themselves and attempting to create diversions and furphies, New South Wales families were forking out more for the mortgage, more on the credit card, less on food, less on kids' clothing, and less on the other essentials of family life. What has the State Opposition said about interest rate rises? Has it been standing up for New South Wales families against Canberra's inflationary economic policies? According to the shadow finance spokesperson, the honourable member for Southern Highlands, the interest rate rise was the result of State Government policies. She said:

> Morris Iemma and Michael Costa might try and blame New South Wales's economic woes on changes in monetary policy, but Labor's poor economic management has caused the problem.

According to the New South Wales Opposition, the State Government is responsible for interest rates increasing twice this year and for the 4 per cent inflation rate over the past 12 months. That is typically out of touch. The Iemma Government's plan for the future of New South Wales will make life easier for families. Tragically, the Federal Government's policies are making life harder.

Ms TANYA GADIEL (Parramatta) [5.10 p.m.], in reply: I thank the honourable members for Baulkham Hills and Camden for their contributions today. We know that the honourable member for Camden is passionate about his electorate because we hear his contributions in this Chamber. He is concerned about interest rates and the fact that families in his electorate are $1,902 a year worse off. He has obviously done the calculations. I commend him for his passion and his support for his community. He is correct when he says that the Federal Government will blame anyone but itself—the State Government, Cyclone Larry and the price of bananas.

Although I would not have expected him to, the honourable member for Baulkham Hills said not a word about the GST rip-off and the fact that this State will be about $3.5 billion worse off this year. He also referred to the rail link in the north-west of the State. If he spoke to his mates in Canberra and we got that additional money we would be able to afford to build that infrastructure now. I want that money now so that the rest of the Parramatta to Chatswood rail link can be constructed. He said not a word about petrol prices, and that is because the Federal Government stands condemned for its failure to do anything about that issue. Families across New South Wales are being crippled by price gouging during holiday periods and because the Australian Competition and Consumer Commission has not yet been asked to investigate.

The honourable member for Baulkham Hills spoke about bungling and ineptitude, and I will join him in that reference. We heard during question time today that the Peter meter of unfunded promises has climbed to a record high of $25 billion. That is pork-barrelling in its most grotesque form. The Leader of the Opposition has also promised to sack 29,000 public servants. The honourable member talked about how the Opposition would cover the cost of its promises. If those jobs were to be abolished and if all government advertising were banned, there would still be a $15 billion black hole.

The Leader of the Opposition is in the Chamber. I would like him to give a commitment that should the Coalition gain power, the Parramatta area will not lose the public servants who work in the justice precinct and those who work for Sydney Water and other public sector organisations. The Labor Government has built up the Parramatta area and boosted the local economy. The loss of 29,000 public sector jobs would be a direct attack on the Parramatta economy. The Premier said during question time that if we lose control of our budget, we lose control of our capacity to withstand the shocks caused by property market downturns. I challenge the Leader of the Opposition to come clean and tell the House how New South Wales would survive under his grotesque mismanagement of the State's finances. [*Time expired.*]

Discussion concluded.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Madam ACTING-SPEAKER (Ms Marianne Saliba): I report the receipt of the following message from the Legislative Council:

Mr SPEAKER

The Legislative Council desires to inform the Legislative Assembly that it has this day agreed to the following resolution:

1. That the House take note of Report No. 1 of the Joint Standing Committee on Electoral Matters entitled "Inquiry into the Administration of the 2003 Election and Related Matters", dated September 2005.

2. That recommendation 33 of Report No. 1 of the Joint Standing Committee on Electoral Matters entitled "Inquiry into the Administration of the 2003 Election and Related Matters", dated 20 September 2005 be recommitted to the Committee for further consideration and report.

3. That a message be forwarded to the Legislative Assembly seeking the concurrence of the Assembly in the resolution of the Council.

Legislative Council
27 September 2006

CHRISTINE ROBERTSON
Deputy-President

Consideration of message deferred.

BUSINESS OF THE HOUSE

Notices of Motions

Madam ACTING-SPEAKER (Ms Marianne Saliba): Order! It being after 5.15 p.m. the House will now deal with General Business Notices of Motions (General Notices).

General Business Notices of Motions (General Notices) given.

PRIVATE MEMBERS' STATEMENTS

BANDAGED BEAR DAY APPEAL

Mr ANTHONY ROBERTS (Lane Cove) [5.23 p.m.]: This year the seventeenth Annual Bandaged Bear Day Appeal was held, with all funds raised going directly to the Children's Hospital at Westmead. The Bandaged Bear is the mascot of the Children's Hospital at Westmead, a symbol of all the hospital stands for: a total healing environment providing the best possible medical care, attention, support, and available resources to the children of New South Wales and their families. Over the past 12 years, the Bandaged Bear Day Appeal has raised more than $11 million for the hospital, helping to care for more than 26,000 sick children who were admitted to the hospital for specialist care, and more than half a million children who visit the hospital's outpatient clinics each year. The specialist care provided by the Children's Hospital at Westmead is world renowned, and children travel from all over Australia and overseas to receive treatment for a range of conditions.

The Bandaged Bear is a popular and much-loved character in the community, and support for the hospital is growing each year. It was this love and support of our children that persuaded Kelly McMahon of Woolworths, Boronia Park, in my electorate, to hold a barbecue fundraiser on Saturday 16 September. In association with Alison Minassian, a senior analyst and State co-ordinator of volunteers at Woolworths, Kelly garnered staff at the supermarket, who gladly gave their time to encourage shoppers to donate their spare change. The day also featured a visit from Shanti Woodend, a hospital hero. Shanti is a vibrant little girl who suffers from Vater syndrome, whose favourite colour, I might add, is pink. Each year the hospital chooses 10 heroes, in an effort to make the hospital a fun place, not just a place for treatment. I would like to thank Shanti and her parents, Andrew and Heather, for their time, enthusiasm and support for the cause.

Kelly also worked hard to convince a number of organisations to donate their goods or services to the cause. To that end I thank the Dental Lounge at Hunters Hill, Next Generation at Ryde, the Bayview Hotel at Gladesville, Gladesville RSL, Captain Cook Cruises, PJ Gallaghers at Drummoyne, Manly Oceanworld, the Imax Theatre, the National Maritime Museum, D250 The Ultimate Party Venue at Gladesville, KFC Gladesville, Revive @ 107 Hunters Hill, the Koala Park at West Pennant Hills, Putt Putt at Ermington, Skinsational at Boronia Park, Arnotts, Buttercup, Streets Ice Cream and Coca Cola for their generosity.

The day was a great success, with more than $2,500 being raised. I again thank Kelly and all the staff at Woolworths for their hard work in trying to make the lives of our children and the good people at the Children's Hospital at Westmead that much easier. Every year Woolworths contributes approximately $5 million to major Australian children's hospitals, as well as children's medical research or support organisations, including CanTeen, the Juvenile Diabetes Foundation and the Smith Family. Most importantly, I thank the people in my community for their generosity. It shows that community spirit is still vibrant in my electorate, something that, as a local member, makes me very proud.

Charity days such as Bandaged Bear Day highlight the need for us to give generously so that others can enjoy a better life. I urge all members to get involved in charity days like Bandaged Bear Day, Pink Ribbon Day, Red Nose Day and McHappy Day—which, incidentally, will be held soon, on 18 November. I urge members to turn up, not simply for recognition, but so they can be involved in making such a difference to people who need support very much.

JUNIOR RUGBY DEVELOPMENT

Mr MICHAEL DALEY (Maroubra) [5.27 p.m.]: My electorate forms part of the catchment for that great sporting entity known as the Randwick Rugby Union Football Club. Over the years this club has produced a great many national and State representatives, unprecedented in numbers and in quality: the Ella brothers, Simon Poidevin, David Knox, Lloyd Walker, Phil Kearns, Ken Catchpole, Sir Nicholas Shehadie, who is the husband of our Governor, and triple international Michael Cleary are just a few who have emanated from the club. The essence of this club and other rugby clubs like it all over New South Wales is that they are local and they are tribal. Lest anybody accuse me of having an undisclosed conflict of interest, I should say that I am president of the licensed Randwick Rugby Club.

Young children who play rugby aspire to play for their local clubs. In Randwick they aspire to pull on the myrtle green jumper. Like other clubs, Randwick has fed State and national teams with players and has contributed to the success of the Waratahs and the Wallabies. That has led to Australian rugby now being the envy of other countries. To me, club rugby has always been an untapped vein of wealth. Surely, I thought, one day rugby administrators will realise this and allocate personnel, money and, most of all, the marketing expertise to wake the sleeping giant and make sure it is more broadly attractive. Alas, the opposite appears to be true.

The new national competition mooted to begin next year, along with a great many other factors, will make it even more difficult for local rugby clubs to remain viable. I accept that the national competition will proceed. I accept that Randwick, Sydney University and Eastern Suburbs, clubs that opposed the national competition, have lost that fight. But consider this: every home game lost to a local club—in the sense that it is not held—is a cost to that rugby club. At Randwick each home game lost costs the football club somewhere between $5,000 and $15,000 at the gate and the licensed club somewhere between $10,000 and $20,000 in takings. That is money put back into our team. The national competition will shorten the local competition and cost not only our club but also other clubs in similar positions.

If that is not enough, when I was younger I used to go to Coogee Oval, as I do now, and watch the stars play. Campese, Kearns, Ella—all of them played there. And we got fantastic attendances at those games. Fathers and mothers brought their kids to watch these stars. They still do. With the present structure of the Wallabies and the Waratahs, and the national competition, there will be no stars at Coogee Oval or at any other local grounds for people to watch. This makes the game less attractive to sponsors, which further hurts clubs. In addition, the Australian Rugby Union provides only $2 million a year by way of financial assistance for all the clubs on the eastern seaboard. That is $2 million spread around 25 clubs. However, that funding has been pulled in its entirety to fund the national competition, which is another blow. But here is the crux: two weeks ago my eight-year-old son came home and told me that he, along with every child in his school, was attending a gala day to play not rugby or rugby league but Aussie Rules. Great, I thought. Sport is fantastic.

That event, organised by the local AFL, preceded another event held today at his school called "Red and White Day"; everyone at the school dressed up to support the Swans. We all support the Swans, and no-one would take issue with that. However, where is the rugby equivalent? Similar efforts from rugby administrators are few and far between. With only two development officers from New South Wales Rugby operating in the entire Sydney area and six others spread throughout the State, development at the grassroots level for rugby is entirely lacking. I do not want to criticise any particular people. I accept that the administrators have good intentions, but they are not listening to people at the grassroots level, and they are being outdone by other sports.

Prior to the great success of the Wallabies in 1991 and thereafter, and the great marketing exercise that has resulted in the Waratahs and Super 14s becoming so successful, rugby in New South Wales was predominantly a sport appreciated and played by expatriate New Zealanders and in private schools. Since then the game has grown. I do not want rugby to revert to that. The long-term success lies in broadening the appeal of the game. The rugby administrators should listen to rugby mums and dads in my electorate and in other electorates who are crying out for them to look after local clubs and to provide funding and support for youngsters aged five years and up who play the sport. If they do not start listening, local clubs will suffer and communities will miss out on the best this great game has to offer.

FUELMATE CATALYST DEVICE

Mr ANDREW STONER (Oxley—Leader of The Nationals) [5.32 p.m.]: I draw to the attention of honourable members a device being marketed by my constituents Darren and Kylie van der Ley of Mid Coast Mobile Servicing. Darren and Kylie reside at Sancrox and their business is based in Port Macquarie. The device

is called a fuelmate catalyst. Recently in this House I pursued the cause of ethanol-blended fuel in vehicles, which would result in reduced emissions and a lower cost of fuel. This device offers similar benefits to ethanol-blended fuel and may be used in conjunction with such fuel. Basically, a fuelmate catalyst is a unit that is bolted to the side of engines of various types of vehicles. The housing is a fully welded stainless steel high-pressure chamber containing powerful magnets at each end, followed by specially spun cast tin alloy pellets with precision laser-cut steel rubbing plates.

The magnets are arranged at each end, setting up an opposing magnetic field that assists in the breakdown of the long chains of hydrocarbons, producing a more efficient fuel burn. As the fuel passes over the pellets and through the rubbing plates microscopic particles of tin are released into the fuel stream due to the vibration and friction between these plates, assisted also by the fuel turbulence. Having magnets at each end creates a self-adjusting system, as well as eliminating fuel flow direction issues, where over many years side wear on the pellets is taken up with the magnets' attraction towards the support clamps. Maintaining contact on both sides of the pellets creates a consistent and controlled tin release through the life of the fuelmate catalyst device.

What are the benefits of this device? The first is fuel economy. Most users report a 15 per cent to 25 per cent increase in fuel economy, but this depends on engine design and driving habits. The second benefit is power and torque. More power is available through the complete driving range. Most dyno studies reveal an improvement of 5 per cent to 6 per cent immediately, and up to 10 per cent to 12 per cent after about 1,000 kilometres. Torque is also increased, especially in the mid range, with figures of up to 26 per cent being reported. It also results in cleaner engines. The fuel catalyst process removes carbon build-up and prevents it from reforming. Improved combustion also reduces contamination entering the engine oil and other engine areas, resulting in longer engine life—in some cases up to double the life.

Another result is lower emissions. Better combustion means less waste. It has been proven that fitting a fuel catalyst to the engine can reduce toxic exhaust emissions by up to 50 per cent. Minimising toxic emissions helps our environment and protects our health. Lastly, the engine is protected. The tin alloy released from the fuel catalyst during combustion turns to an oxide, which coats the entire combustion chamber, including the valves, preventing metal-to-metal contact. Valve mating surfaces in older cars are protected, which enables them to run on unleaded fuel, while later engines will also benefit from the catalyst, providing excellent protection against valve wear.

In short, better octane behaviour is the reason that leaded engines and other engines perform so well with these catalyst devices. I raise these issues because one desirable outcome for the citizens of this State is fewer emissions from vehicles. That is the case especially in Sydney, where there are millions of vehicles causing traffic congestion and we have reports that air quality is getting worse all the time. With this particular device reducing toxic emissions by up to 50 per cent, it is well worth investigating. I understand that the State Government has a large fleet of some 24,000 vehicles. These devices can be fairly simply and easily affixed to engines; the process takes about an hour. I ask the Minister responsible—I presume it is the Minister for Commerce or perhaps someone in the Premier's Department—to investigate the fuelmate catalyst device and to contact my constituents Darren and Kylie van der Ley to see what sort of benefits there may be not only to taxpayers in terms of reduced fuel costs but also to the citizens of New South Wales in terms of improved air quality.

WERRINGTON DOWNS OVERDEVELOPMENT

Mr ALLAN SHEARAN (Londonderry) [5.37 p.m.]: Today I relate to the House the efforts to stop overdevelopment in Werrington Downs and to report on how the community and local members of Parliament can join together to achieve significant results. At the beginning of this year local residents surrounding the area became aware of a proposal by Landcom to sell surplus land at Brookfield Avenue, Werrington Downs. While normally that may seem innocent enough, the siting of the land was on the edge of a drainage reserve which for a long time had been regarded by residents to be part of an open space area. Naturally, the residents did not want to have that section of land developed. The site I refer to was left over from a residential development that was approved by Penrith City Council and completed in 1981.

This small block of land is about four hectares and adjoins an existing public open space area of about 6.5 hectares owned by Penrith City Council. While the Landcom site is on the edge of an area that is essentially a drainage reserve, most local residents have regarded the whole site as being a popular local park that is used regularly by both children and adults for a variety of purposes such as walking, picnics, ball sports and other

healthy outdoor activities. At one stage the local council had erected a basketball court on what has now been recognised as being Landcom property; and despite the basketball rings being removed some time ago, kids still use the area to play and ride bikes. Late last year this site was fenced off, alerting local residents that something was amiss.

In January the issue started to hot up with approaches by local residents Debbie and John Murphy, John Drennan and Rod Speechly, each bitterly upset that Landcom could even consider selling part of their park to a developer with a view to erecting five houses on the site. In response to those concerns I visited the site and, even though I was familiar with the area, I could not believe that such a proposal could have been conceived. It is like a sore on the local environment and is certainly an overdevelopment of the site. I immediately contacted the Minister's office, as his administration is responsible for Landcom. It was explained to me that the property was originally owned by the Department of Housing, which sold it to Landcom.

I discovered that it is currently zoned as residential 2 (b) under Penrith City Council's Urban Land Local Environmental Plan 1998. I understand that Landcom had offered the land to Penrith City Council for a reasonable price based on a fair market value, but in October last year council rejected that offer saying that at that stage it was not considered to be a priority. Accordingly, Landcom developed a sales strategy to maximise potential income from the proposed development. Needless to say the local residents thought the whole proposal was outrageous, and rightly so.

The people I mentioned earlier helped to form a residents action group, and signs with slogans such as "No House in Our Park" and "Save Our Reserve" rapidly appeared on the fence erected around the site. They organised public meetings both at the site and at the Werrington Downs Community Centre. Along with the local Penrith City Council North Ward councillors, I attended a number of community meetings, particularly one of the early community centre meetings. We all left that meeting with the very clear message that development of this site would not be tolerated. As a consequence I had a rather heated discussion with the Minister, who pointed out that he had a budget to meet and that surplus properties could not be maintained simply for convenience. I was, of course, conscious that the financial position of the State, while manageable, had been placed under stress because of continual funding cuts by the Commonwealth and the ongoing robbery evident in the goods and services tax funding arrangements.

Notwithstanding that, together with the energetic, vocal and effective action group and bolstered by the results of a petition I had circulated amongst local residents, I was able to convince the Minister for Planning that saving this reserve was more important than simply balancing the books: it was a part of the local environment for which further development was totally inappropriate. Fortunately, the Minister listened and agreed with the local residents and with me. For that I am most grateful. Landcom's original intention was to place the property on the market on 28 February 2006, but our representations led to the sale being put on hold. The Minister asked Landcom to resume negotiations with Penrith City Council to explore the transfer of the land to council ownership on terms to be agreed, thereby enabling council to combine the land with the adjoining public reserve.

I acknowledge the contribution to this community campaign by the former mayor, Councillor John Thain, and his north ward colleague and recently elected current mayor, Councillor Pat Sheehy, both of whom encouraged their council to examine the land swap proposal under which the Brookefield Avenue land will be transferred to council ownership in exchange for Landcom equity elsewhere in Penrith City Council's boundaries. I am delighted to report that last month the Premier visited the Brookfield Avenue site and confirmed that Landcom had agreed to such a proposal, thus overcoming a significant hurdle for council, which could not afford to purchase the land. Debbie and John Murphy, John Drennan and Rod Speechly deserve special recognition for their leadership of the action group. This is a huge win for local families, who had vigorously campaigned to protect this site. It is a win for people power and shows that the State Government listens to local communities.

KU-RING-GAI ELECTORATE BUILDING DEVELOPMENTS

Mr BARRY O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [5.42 p.m.]: I again raise a development issue affecting the Ku-ring-gai electorate and, once again, it relates to the impact of a State environmental planning policy [SEPP] upon the community I represent. I do so with a sense of déjà vu: it seems like Groundhog Day. During the last Parliament I joined with local residents, especially from North Turramurra, to argue the flaws of SEPP 5. Those flaws and their adverse consequences for communities were eventually understood across Sydney. That concerted effort resulted in much-needed changes to that planning instrument. It

also led to a review of SEPP 5, a review meant to ensure that the intent of the policy—that is, providing housing options for seniors and people with disabilities—was achieved in a way that did not cause local problems. In March 2004 a replacement planning instrument, SEPP Seniors Living 2004, was implemented.

State environmental planning policies are essentially regulations made by planning Ministers under the authority of the Environmental Planning and Assessment Act. I deplore the fact that, unlike every other regulation made under State legislation, SEPPs are not subject to review or disallowance by either House of Parliament. Given the critical consequences of these planning instruments for local communities there is no valid reason why that exemption continues. The exemption has helped create the increasing feeling of powerlessness many residents in Ku-ring-gai and elsewhere in this city experience in relation to development changes flowing from SEPPs. It is a sense of frustration shared by many members of Parliament, yet the State Government refuses to act. So in March 2004 an allegedly new and improved SEPP emerged, and so did the flaws. Under that SEPP a completely inappropriate development is being proposed for Wahroonga—not a section of Wahroonga adjacent to the Pacific Highway, railway line or shopping centre, but a part I characterise as a deep residential zone.

The area is part of an urban conservation area. It is bounded by some of Wahroonga's finest streets and situated amongst a diversity of fine homes and schools. It is the sort of locale that could be found in many parts of this city where, in my view, the proposed development would still be entirely out of character and unwarranted. This development proposes that eight new buildings be constructed on the old John Williams Memorial Centre site at 35 Water Street. The site also has access to Young Street and Billyard Avenue. If it proceeds, buildings of up to six and seven storeys will be added to an area where one-storey and two-storey homes predominate. The height of those buildings is not easily apparent from the development application [DA] lodged with Ku-ring-gai Council. For instance, in that document one of the new buildings, B1, is described as five storeys and basement. In reality it is seven storeys, a fact confirmed by the project's 3D model. Building E2, adjoining Young Street and described as two storeys and basement, is actually four storeys high.

On bulk alone this project has no place on this site—or any similar site in a residential area in Ku-ring-gai or elsewhere in Sydney. The John Williams Memorial Centre was gifted to the State in 1951 for the use of sick and disabled children. After the State Government obtained Supreme Court approval in 2002 to vary the trust deed, the property was sold in 2005. It is home to Rippon Grange, designed and built in 1898 by Howard Joseland. The buildings have been nominated for State Heritage listing by the National Trust and are included on the Australian Heritage Commission's Register of the National Estate. Rippon Grange is a two-storey structure. Under this proposal seven storey buildings will dwarf it without apparent objection from the State Heritage Office. That highlights the enormous conflict of interest faced by the planning Minister: How can he be responsible for both development and for preserving our built heritage?

The proponents argue that under SEPP Seniors Living this development is permissible as the 23,000-square metre site is zoned for hospital uses. If that is true, it demonstrates an enormous error in the SEPP. When most people think of hospitals on the North Shore, Hornsby hospital, Sydney Adventist Hospital [the San] and the Royal North Shore Hospital spring to mind—large, bulky, sprawling sites that preceded their surrounding residential communities. It would be one thing to propose a project of this scale for one of those sites, but completely another to suggest such a development in an intact residential community like this one. It is equally true that under this SEPP vertical villages are envisaged, that is, projects that rise rather than spread. But the instrument only intends them to be in higher-density locations. This part of Ku-ring-gai is as far from a higher-density location as one could get—until and unless, that is, the development proceeds.

Notwithstanding their actions elsewhere in Ku-ring-gai and this city, I find it hard to believe that the State Government and its planners intended this policy to be used to devastate a community in this way. That is why I have written to the Minister for Planning drawing his attention to what I regard as a loophole and seeking urgent redress of the issue. There are other factors explaining why this project should not go ahead. A visit to Google Earth is the easiest way to appreciate the importance of this, and surrounding areas, in relation to Blue Gum High Forest. From this perspective, the link between the remnant blue gums on the John Williams site and the Clive Evatt Reserve, Turiban and Mona Street reserves, and Wahroonga Public School—the so-called bush school—becomes apparent. Yet the DA records 342 trees on the site, including 31 with a tree significance rating of one or two on a scale where one is highest and five is lowest, with 119 to be removed..

Equally, the presence of a number of schools in this area already causes traffic problems. In particular, parents dropping off and picking up students attending the bush school use Water and Young streets. I cannot believe anyone is seriously proposing to add to that mix additional vehicles from a 78-unit seniors and disabled

persons development. The project DA highlights one of the problems, the narrowness of Young Street, yet that is the street earmarked as the main access to the residents' 150-space car park. This issue is wider than just this part of Wahroonga and Ku-ring-gai local government area. My enquiries, and those of council, have failed to identify a similar development of this type, that is, a significant high-rise for seniors living deep within a Sydney residential suburb.

Like its flawed SEPP 5 predecessor, success with this development is likely, I fear, to spawn others on similar sites across this city. I could summarise residents' objections as, "Excessive in both size and scope and will be detrimental to our current enjoyment of the amenities in the quiet, low- density, leafy environment." Those words were used in an objection lodged by the planning Minister's family to a proposed four-storey development in their Beverley Park neighbourhood. In asking the Minister to review this matter, and the planning instrument that may allow it, I urge him to think about those who will live near a development three storeys higher than the one to which his family objects.

More important, I urge him to think of the other families across Sydney who, if nothing is done, could share the same fate. In the same vein I pay tribute to those residents who are working hard to try to ensure this development does not proceed. I encourage honourable members to go to the web site *www.wahroonga.org* to get the details of this site and the impact it will to have on the local area. I urge the Minister to have a look at that web site because it makes it clear that this development is not suitable for a residential area in Wahroonga or any other part of the city.

JAMES HARDIE DIRECTORS SALARY INCREASES

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [5.47 p.m.]: They are morally bankrupt. I refer to reports in the media that the directors of James Hardie have voted themselves a massive pay rise of up to 130 per cent. The new arrangements also give the James Hardie Chairman, Meredith Helicar, a wonderful retirement benefit of $US1.2 million just before she jumps ship as chairman. That outrageous move by the directors and senior executives of James Hardie is in stark contrast to their failure to deliver compensation to the victims, their families and future sufferers of asbestos-related diseases. The protracted delays by James Hardie in settling compensation and setting up a future fund for victims is outrageous—and this golden gift by James Hardie to directors and executives makes it malicious.

This decision breaks an agreement James Hardie had made not to increase directors' fees until an asbestos compensation deal was finalised. In my electorate of Newcastle hundreds of thousands of workers would have been exposed to asbestos throughout the twentieth century. In the steelworks, the electricity industry, on the docks and in the maritime industries, painters and dockers, laggers, fitters and turners, stevedores and electricians were all potential victims of this negligent and disgraceful company.

In 2003 it became apparent that the Medical Research and Compensation Foundation that James Hardie had established with $293 million of its assets on 16 February 2001 to "resolve its future asbestos liabilities for the mutual benefit of claimants and shareholders" was grossly underfunded. The company was very much aware in 2001 and 2003 that there was no way that amount of money could meet current and future responsibilities. Legal experts have said that the statute of limitations for plaintiffs to take action over Hardie's underfunding of an independent trust to handle its asbestos liabilities expires in February. The fund, the Medical Research and Compensation Foundation, will run out of money in December, further eroding its ability to take legal action against James Hardie.

The *Australian* newspaper has revealed that the Australian Securities and Investment Commission [ASIC], conscious of the February statute of limitations deadline, will take action against James Hardie officers before that happens. James Hardie agreed to establish a new fund, but that has been delayed—so James Hardie would have it—by a disagreement between the company and the Australian Taxation Office over how it will be taxed. But even the Federal Government agreed that justice had to be done and changed taxation laws to allow the asbestos compensation payouts to be tax deductible. It is a rare event, but I agree with the Federal Treasurer, Peter Costello, who said on 20 September that James Hardie has no automatic right to a favourable tax ruling because it, and not taxpayers, is responsible for compensating victims. But James Hardie has been trying to weasel out of its responsibilities. It has been holding out on finalising an agreement because it wants tax-free status.

Meanwhile, the victims of asbestosis and mesothelioma have not gone away—although many victims have died. The number of victims keeps growing. In the past seven years 351 people in the Hunter-New

England area have been discharged from hospital with the principal diagnosis of mesothelioma. The number continues to grow: in 1999, 30 cases; in 2000, 45 cases; in 2001, 46 cases; in 2002, 62 cases; in 2003, 63 cases; in 2004, 51 cases and in 2005, 54 cases. That is 351 workers in the Hunter facing a virtual death sentence. There were 213 new cases of mesothelioma in New South Wales in 2003—174 male and 39 female. Of the 153 deaths from mesothelioma 125 were males and 28 were females. Two years ago I joined thousands of workers and their union representatives and victims at a James Hardie shareholders meeting to continue the protest against its disgraceful corporate behaviour in avoiding its responsibility to properly compensate victims of asbestos-related diseases. In 2004 the call was:

> "Asbestos kills, James Hardie knew", it's time for them to meet their responsibilities to victims and their families.

To use the words of Barry Robson, President of the Asbestos Diseases Foundation of Australia, who has been deeply involved in the five-year struggle to achieve justice for workers, this once great Australian company is "morally bankrupt". That comment resonates strongly with me. I say to James Hardie: You must do the right thing for your victims, not only your shareholders, executives and directors. You must meet your responsibilities and fully compensate the victims, those people living with asbestosis. You must act now and restore the company's reputation by setting up a guaranteed compensation fund. [*Time expired.*]

ANGLICAN PARISH OF GUNNING WALKATHON

Ms KATRINA HODGKINSON (Burrinjuck) [5.52 p.m.]: Rural New South Wales is doing it tough during the extended drought, but there is an amazing strength and ability to endure in rural New South Wales. In part much of that strength comes from the many rural churches, which provide pockets of faith and support. The Anglican Parish of Gunning is one such church. It has served the community for more than 130 years. The parish centre is St Edmund's Church in Gunning, where, incidentally, my grandfather, Jack Hodgkinson, once served as a Minister's assistant many years ago. St Edmund's is a beautiful old bluestone church with lovely stained glass windows. Other churches in the parish are St Thomas's at Bevendale, St Silas' at Breadalbane, All Saints at Collector, St Matthew's at Dalton, St Mark's at Gundaroo and Christ Church at Jerrawa.

Being a small rural parish, the Anglican Parish of Gunning has always struggled financially. Thirty-seven years ago the parish had an old car that was used by the Rector, the Reverend Barry Green, to travel between the centres to tend to the needs of the community. The only problem was that the driver's seat had fallen to pieces and Reverend Green had to drive around the parish sitting on a wooden fruit crate. Out of that need the Annual Walkathon for the Gunning Anglican Parish was born and has been held every year for the past 37 years. That is, until now. The walkathon has had to be cancelled, not because of the drought and not because no-one wanted to walk. There are plenty of walkers. It is not because no-one would organise the event; its organisation has been completed. It is not because there is no public liability insurance; the relevant insurance is held. It is because of the increasing level of bureaucracy imposed by the Roads and Traffic Authority [RTA].

The walk was scheduled to be held on 7 October, next Saturday week. Its route took the walkers along the old Hume Highway South of Gunning over a distance of 10 kilometres. The old Hume Highway south of Gunning, known locally as Veterans Road, is used so infrequently by traffic that at about 500-metre intervals there are gates and cattle grids across the road to stop the sheep which graze along its verges from wandering too far. One would be lucky to see four cars a day using this road. Jan Granger, one of the organisers, sent me an email on Friday saying:

> Despite following "the usual procedure", with permission being requested 6 to 7 weeks before the walkathon, we were told that we did not have permission to hold the 2006 Walkathon.

The reason given by the Roads and Traffic Authority was that the organisers did not give the RTA three months notice. On being told that permission had been refused the walkathon committee was then told that a further application would only be considered at a meeting on 13 December 2006. In 2005 the RTA required only six to seven weeks notice, but 12 months later it now requires three months notice. In addition, it will only consider these requests four times a year. Jan continued in her email to me:

> Prior to 2005 the usual procedure was followed. Letters requesting permission were sent to the Local Council and Yass Police to hold the Walkathon. The procedure was followed in 2005 but in addition we were asked to provide a Traffic Management Plan.

Last year produced the insidious spread of the State Labor Government's burgeoning bureaucracy with the additional requirement to submit a traffic management plan. The plan for 2005 is two pages long. The plan that the walkathon committee had to submit this year is five pages long—five pages to justify some people walking

along a road, which has as its primary purpose the grazing of sheep on its verges. Amidst all this bureaucracy, the only bright spot is the great support provided by the ever- helpful Upper Lachlan Council's road safety officer, Mark Foran. Jan continued:

> Mark has been very helpful with our application. He suggested detail to be added to the Traffic Management Plan and suggested I download a Special Event Transport Plan Template from the RTA's website, complete and present with our application.
>
> Much of what we had to address on the form was irrelevant to us and some parts were time consuming to complete.
>
> In our original Traffic Management Plan the map included was obtained from the Gunning Office of the Upper Lachlan Shire Council, one showing the old highway (Veterans Road) and one of the town of Gunning showing the streets.
>
> This is not acceptable and I was told that the engineers on the council would have to draw up the map.

Some of the entries on the risk management plan required by the RTA read "gate-grid, walkers will walk through open gate." What a terrible risk to life and limb! But, watch out, there is an even greater hazard ahead. The walkers then had to walk through a cattle underpass under the Hume Highway and then across a paddock and through another open gate. Why are we paying our taxes to support this sort of insidious bureaucracy imposed by the State Labor Government? It is absolutely laughable. When did the meaning of the word "service" slip out of use in the title "public service"? The Anglican Parish of Gunning has been forced to abandon a major fundraiser during a time of extreme financial hardship caused, as I said at the beginning of my remarks, by the ever-increasing severity of the drought that is facing rural New South Wales. This walkathon had to be cancelled directly because of overly bureaucratic nature of the RTA. It is the totally uncaring attitude of the Iemma Labor Government that has forced this walkathon to be abandoned, and the Government stands condemned for its actions.

KOREAN WAR VETERANS

Ms MARIANNE SALIBA (Illawarra) [5.57 p.m.]: I voice my support for the Korean War veterans of Australia and the work done by the Korean War Veterans Recognition Committee. It is headed by the President, Mr Bob Morris, and secretary Rod Coopland, who are seeking appropriate recognition for Korean War veterans. The report of the Post-Armistice Korean Service Review made several recommendations that have been rejected by Federal Minister Billson, the Minister assisting the Minister for Defence. The rejection of the recommendations is a disgrace—18 veterans lost their lives upholding the values of the Liberal Government of the day. The report contains solutions to get rid of a stigma placed on veterans who served in Korea. The Korean War began on 25 June 1950 and ended with a truce on 27 July 1953, although no permanent peace treaty has ever been signed.

Personnel of the Australian Navy, Army and Air Force units were deployed for service in Korea after the armistice from 28 July 1953 to 19 April 1956. During that operation they experienced the trauma of casualties, including death, amongst members of their units. There is wide support for the Korea War veterans from families and supporters all over Australia, pre- and post-armistice servicemen, veterans associations and sub-branches. I call on the Australian Government to revisit and reconsider the recommendations of the review panel. There is a need to recognise that the conditions experienced in Korea during their demanding service from 28 July 1953 to 19 April 1956 warrants recognition beyond the Australian Service Medal.

I also call on the Australian Government to award the General Service Medal specific to the period and the Returned from Active Service Badge. The Korean Service Review recommendations were rejected. The working party recommended that the Australian Government proceed to establish conditions of eligibility for the award of a newly instituted Australian General Services Medal for service in Korea for the period from 28 July 1953 to 19 April 1956 with a period of eligibility of 30 days in the prescribed operation. The Australian Government did not agree to that recommendation and pointed out that a clasp for duty in Korea had been awarded. Robert McClelland, the shadow Minister for Defence, moved a motion in the House of Representatives noting the vital role played by Australian Defence Force [ADF] personnel, their professionalism and courage and the critical importance of adequate recognition on the morale of current ADF personnel. He called on the Australian Government to adopt the recommendations of the review. I add my support to his motion. The service of personnel in Korea post-armistice needs to be recognised.

A request has been made to the State Government for the establishment of a Korea War memorial. A constituent of mine, Harry Spicer, who is a member of the Korea War Veterans recognition committee, raised this issue with me. I made several inquiries of the Premier's Office. I place on the record my thanks to Phillip Kelly, who responded promptly to my inquiries. His advice to me was that a small plaque is already located at

Barrack Place between George and Carrington streets. However, the Government is looking at a more suitable and appropriate memorial to recognise the contribution of Korea War veterans. Discussions were held between the Premier's Department and the Korea War veterans and agreement was reached that the veterans would look at appropriate designs and discuss with the department an appropriate location for the memorial. People who have fought and given their lives for Australia should be recognised. Although their service was post-armistice, they performed operations in an area of unrest. We must acknowledge their service.

ALZHEIMER'S AUSTRALIA

Mrs JUDY HOPWOOD (Hornsby) [6.02 p.m.]: This afternoon I wish to speak about Alzheimer's Australia, particularly the New South Wales branch of that association. Alzheimer's Australia has been working for 100 years towards a world without dementia. I speak on this issue having had a long career as a nurse looking after many patients with a form of dementia and having a close association with Alzheimer's Australia New South Wales. Recently I had the honour and privilege to visit Macquarie Hospital campus, one of two campuses occupied by Alzheimer's Australia New South Wales. The refurbishment of that establishment will provide people with Alzheimer's or a form of dementia with considerable assistance, including education facilities and group work for their families and carers. The modern library is a fantastic resource for the complex. Alzheimer's Australia New South Wales acting chief executive officer, Bill Northcote, and manager of client services, Lisa Ralph, accompanied me on the tour. I am one of two parliamentary Friends of Dementia convenors. The other is my colleague Minister for Aboriginal Affairs. We are deeply involved in making sure that members of Parliament and the wider community understand and learn more about dementia.

I acknowledge the work of Geoff McIntyre, who is a committed participant and member of Alzheimer's Australia. I also acknowledge Sue Pieters-Hawke, whose mother has been diagnosed with Alzheimer's. She came to the Parliament and spoke about dementia and Alzheimer's. I pay tribute to the Roseville Returned Servicemen's Memorial Club Limited and acknowledge club president John Whitworth. On 23 September the club recently held an Alzheimer's Australia New South Wales fundraising dinner. More than 170 people attended and the club raised many dollars to enhance the quality of life and dignity of all people living with dementia, their families and carers. They seek also to work towards a society that is free of dementia.

Alzheimer's Australia, which is the national peak body, provides information, support, advocacy and education services. Alzheimer's Australia New South Wales provides leadership on policy and services. It encourages and participates in research initiatives and aims to extend the knowledge and skills of others working with people with dementia, their families and carers. Last week the *Weekend Australian* included a lift-out entitled "The Future of Aged Care". In an article headed "Action call as disease risk grows" the National Executive Director of Alzheimer's Australia, Glenn Rees, stated:

> Every seven seconds somewhere in the world there is a new case of dementia. The dementia epidemic has arrived.

The epidemic coincides with an increasing percentage of older aged people in our communities. We need to focus on this disease because the problem of dementia and the dementia epidemic will become worse. The article stated:

> This year marks the centenary of the first formal diagnosis of Alzheimer's disease by German psychiatrist and pathologist Alois Alzheimer. In this first diagnosis in 1906, he described Alzheimer's disease in a 55-year-old woman who died with severe dementia.
>
> An autopsy of her brain revealed plaques and tangles, the hallmarks of Alzheimer's disease even today.

The article continued:

> According to Alzheimer's Australia, we are now entering a period of rapid growth in the prevalence of dementia. There are an estimated 212,000 in Australia with the condition and by 2050 this number is projected to increase to 730,000.
>
> In 2006, it is estimated there will be 54,000 new cases of dementia.

The theme for this year's Dementia Awareness Month—which started on 8 September and continues through to 8 October—is "No time to lose". I urge all members of the House and the community to focus on working towards an Alzheimer's-free world.

ICE (CRYSTAL METHAMPHETAMINE) DRUG ABUSE

Ms VIRGINIA JUDGE (Strathfield) [6.07 p.m.]: I draw to the attention of the House a matter of great importance. In the Strathfield electorate, of which I am privileged to be the local member, persons aged between 15 and 24 years comprise almost 15 per cent of the population. We have many wonderful young people on the cusp of life. The Strathfield electorate is a family-based community. People are attracted to it because of the area's wonderful schools, public transport and access to employment opportunities. This morning whilst listening to Alan Jones on radio 2GB I heard a small grab by Jason Morrison. Mr Morrison expressed his great concern about crystal methamphetamine, the drug commonly known as ice, and the perils it poses for our community.

Recently Ken Moroney, our excellent Commissioner of Police, spoke about the potential to lose a whole generation of young people to this drug. Earlier this month more than 25 people were arrested at a major dance party event in Homebush Bay. Those young people are soon to appear in Burwood Local Court. According to the only study conducted in relation to methamphetamine use, there are 73,000 dependent users in Australia. Ice addicts now outnumber heroin addicts two to one. I, and I am sure all honourable members, find those figures deeply disturbing.

On 20 March this year *Four Corners* reporter Matthew Carney screened an excellent report about the increasing use of this drug—a journey into the dark heart of the Ice Age. It was reported that ice is the most potent amphetamine available on our streets. In addition to being highly addictive it is relatively inexpensive, making it increasingly accessible, sadly, for young people. The 1998 national drug strategy household survey found that the use of amphetamines among the general population is high compared to other illicit drugs. At $40 for one point, which is roughly one-tenth of a gram, its street value makes it as affordable as a tablet of ecstasy and cheaper than heroin.

Crystal methamphetamine, another popular and dangerous amphetamine, may be even 20 times stronger than speed. Many young people attend social gatherings at nightclubs in Sydney. Apparently one ecstasy tablet can be bought from $15 to about $30 and a drink at one of these more expensive nightclubs can cost about $12, so young people would need about $100 to $150 to spend on their nights out. It would cost them roughly $30 or $40 to buy one tablet of an illicit drug to get a buzz, which is costly, shocking and a terrible tragedy, but that is what is happening.

Crystal methamphetamine adversely impacts on the lives of young individuals. Its ill effects include a deterioration of physical and mental health, death and higher involvement in crime. While users report a sense of euphoria, confidence, alertness and energy the side effects include palpitations and chest pains, agitation, anxiety and depression, sleep disorders, irritability and even psychosis leading to a breakdown in social relationships. It greatly concerns me that people with no known history of mental health problems can experience psychotic symptoms after using crystal methamphetamine. Users experience psychotic symptoms such as paranoia and delusions.

Although very little is known about the long-term effects of the drug, long-term users can develop amphetamine psychosis, a psychological condition similar to schizophrenia. The one study conducted in Australia found that almost one in four users would experience a debilitating psychotic episode. The head of emergency at St Vincent's Hospital who was interviewed on the *Four Corners* program reported a fivefold increase in patients suffering methamphetamine psychosis since 2000. He was quoted as saying, "It makes heroin seem like the good old days." Ice users often experience a panic attack after using the drug, or even a state of extreme aggression requiring physical restraint.

Prepared from cold and flu medications, the drug can be contaminated and, furthermore, drug users who inject crystal methamphetamine are also at risk of exposure to hepatitis B and C, HIV, and other blood-borne viruses. Use of ice peaked particularly during the heroin shortage of 2001 when heroin supplies dwindled in Australia. Asian drug syndicates switched to methamphetamine because it can be manufactured cheaply and it does not depend on crop cycles like cocaine and heroin. As a result, many heroin users switch to crystal methamphetamine and it seems that the smoking of crystal methamphetamine is quite popular, as it does not have the same stigma as an injection of ice or heroin. It is so popular that earlier this year the International Narcotics Control Board spoke out in fear of an imminent drug pandemic. While ice has historically been imported from South-East Asia, the University of New South Wales has evidence to show that it is now produced domestically in an increasing number of backyard laboratories. Furthermore, research conducted by the Australian Crime Commission established the following:

> Laboratories are notoriously unstable and are prone to explosion, fire and toxic chemical spills. For every 100 grams of methamphetamine produced, one kilogram of highly toxic by-products are also produced. These are often disposed of in the local drain or garbage collection.

I draw attention to the access, manufacture and treatment of crystal methamphetamine and commend this issue to all honourable members for their urgent consideration.

ALCOHOL-FREE ZONES

Mr PETER DRAPER (Tamworth) [6.12 p.m.]: Tonight I wish to speak about the public consumption of alcohol and the enforcement of alcohol-free zones in New South Wales. I have previously raised this issue on behalf of the Oxley Local Area Command [LAC] police accountability community team. For a long time alcohol has been a contributing factor in street crime across this State. Recent disturbances in Tamworth and Moree largely have been attributed to drunken offenders. All honourable members would remember the disgraceful Cronulla riots in December, which were fuelled by hundreds of intoxicated hooligans. Alcohol abuse is a growing concern, particularly in rural communities where boredom is attributed to many incidents of excessive consumption. The safety and security of the general public can be jeopardised by excessive consumption of alcohol in public places and can lead to increased rates of assault, malicious damage or offensive behaviour.

Police across the Oxley LAC do an excellent job in driving down crime rates, despite the ridiculous fear campaigns created by The Nationals to mislead the community. I publicly thank Commander Tony Jefferson and his proactive team of police officers, who are making our community a safer place in which to live. However, despite the best efforts of police, some people continue to commit crimes. Unfortunately, statistics provided by police in the Oxley LAC show that excessive alcohol consumption is a contributing factor in 44 per cent of all assaults between June 2005 and May 2006. As well, 11 per cent of malicious damage incidents were linked to intoxicated persons, while 61 per cent of street offences and 36 per cent of domestic violence incidents were also alcohol-related.

Last month in Tamworth the ugly side of alcohol abuse was on display during a weekend of violence near the suburb of Coledale. Police from across the region were called in to respond to incidents where a large group of people had gathered over a longstanding feud between local families. Many of the participants were heavily intoxicated and police and ambulance officers were pelted with bottles and other objects while responding to the unrest. The local area commander even considered implementing new police powers that were legislated following last year's Cronulla riots, and he has my full support. Moree also recently experienced large-scale alcohol-fuelled violence, with the riot squad being called from Sydney.

Such incidents have prompted moves to increase the number of alcohol-free zones across suburban Tamworth. The Coledale Action Team is a community organisation that works towards solving social and crime issues in the Coledale area. At a recent meeting of this group Oxley LAC crime manager, Inspector Greg Birtles, suggested making the suburb an alcohol-free zone. The proposal received unanimous support from those team members in attendance and the community is currently being canvassed to determine whether the broader populace would support such a move. The drinking of alcohol is prohibited in any alcohol-free zone that has been established by a council, and that includes public roads or car parks. Alcohol-free zones promote the safe use of these areas, and reduce the possibility of interference from irresponsible or inconsiderate drinkers.

The Tamworth central business district [CBD] is currently a designated alcohol-free zone. Tamworth is famous for its annual Country Music Festival, which attracts more than 60,000 visitors to the city each year. Before Tamworth Regional Council decided to make the CBD alcohol free in the mid-1990s, the drinking of alcohol was causing significant problems. Some people were behaving in an offensive manner, which was turning many families away from the event. Since the CBD was made alcohol free, this antisocial behaviour has been virtually eliminated and the festival has been rejuvenated as a family friendly event.

While current legislation has proven successful in this instance there is a widespread view that existing penalties for breaching the laws are simply not strong enough. Currently, people found drinking in an alcohol-free zone could have their alcohol confiscated by a police officer or a council ranger and incur a paltry fine of $25. I share the views of police and council that an increased fine of about $200 would be much more appropriate. When we consider that the fine for littering in New South Wales currently stands at $200, it seems appropriate that a law that serves an equally important public good should be altered accordingly.

I urge the Minister for Local Government to consider increased fines for breaching this regulation. Following events at Cronulla and a number of incidents that I have previously mentioned, the community expects laws to provide a greater deterrent to poor behaviour. If Tamworth police had their way all the public use areas around Tamworth would become alcohol free, which would limit alcohol consumption to licensed premises and to the home. Such a move would further protect the community against the problems generated by alcohol abuse. I encourage the Government and local councils to consider the benefits that such a move would provide.

BUSINESS WITHOUT BORDERS

Mr RICHARD TORBAY (Northern Tablelands) [6.17 p.m.]: On many occasions I have spoken in this House about the business capacity of regional areas in this State and the short-sightedness of successive governments not to capitalise on it. I have also pointed out that this State's priorities relate not just to its capital city. The answer to relieving the overburdened infrastructure of Sydney is a well-considered tax incentive and a decentralisation plan to encourage more people to settle in the regions. Statistics show that people want to relocate from Sydney. I am suggesting that the government should help by giving them a soft push through incentives, and by actively promoting opportunities that exist.

In my view, it is more pleasant and less costly to live in regional and rural areas. It also makes sense, as many thriving country-based businesses are proving. Today I select four from my region in the Northern Tablelands who might well operate from a metropolitan centre but whose owners prefer to live and do business in the country. There is no doubt that developments in information technology [IT] are creating a borderless business environment and that none of these operations would have been possible without it.

About a fortnight ago, I launched the Granite Globe Information Technology Cluster in Uralla and toured the headquarters in Glen Innes of the highly successful Eastmon Digital Photo business. I also spent time with Ian Jacks, whose business, Hi Style Furniture and Kitchens in Inverell, manufactures computer-designed kitchens, and with Graham and Barbara East, whose Armidale company, New Horizons, produces educational software for the national and international market.

Granite Globe is branding Uralla as the hi-tech centre of the Northern Tablelands. Its cluster of 13 operators offers digital audio processing and archiving, graphic design services, computer refurbishing, a technology access and support centre, templates and macros, a number of IT support services and photography and digital imaging. Many of the young people involved in this venture have moved from Sydney and telecommute with their metropolitan clients from their Uralla base. It means they are not totally dependent on generating an income locally, can network with others in the group to create new business and benefit from the country lifestyle. Although the cluster is new, it is already servicing clients from many parts of Australia and the United Kingdom.

Eastmon Digital is a 45-year-old business reborn. This McDonalds of digital photography services is managing 800 employees in photo stores nationwide and employing 35 to 40 staff at its Glen Innes headquarters. The company expects to create another 20 to 30 jobs in Glen Innes in the near future. It is employing and training local people, including several straight out of school who are learning on the job and enjoying the challenge. Howard Eastwood started his backyard business in 1961 processing black and white photographs. The business rode the changes to colour photography and then into digital photography. In 1995, Hugh Eastwood—his son—took over the business and proceeded to systemise the business, taking on management of the Rabbit Photo chain Australia-wide. This is a dynamic, innovative and expanding business in a high growth, hi-tech industry that is bringing new skills to Glen Innes, where it is thriving.

Ian Jacks started off making furniture in a backyard shed in Inverell in 1991. His business, Hi Style Furniture and Kitchens, now has 14 employees and is manufacturing flat-pack kitchens for clients in Queensland, South Australia and New South Wales. Two years ago he invested in a computer numerically controlled router. Through specially developed software, clients upload their designs to his system, which automatically cuts and drills the sheets with minimal waste of materials. The process is fast, efficient and cost effective for small and large operators.

I have spoken before in this House about New Horizons, the award-winning educational software company based in Armidale, which employs 23 full-time staff, up to 12 casual workers and a team from the local Challenge Foundation. This operation grew from a small home-based business to the multi-million dollar venture it is today. Its principals, Graham and Barbara East, believe strongly in working from a regional centre

because they have access to long-term, stable employees and a ready supply of capable staff from the university student body. Time does not allow me to cite other examples of successful modern businesses in my electorate, but there are many and I believe this pattern is repeated throughout regional New South Wales. It is up to the Government to take a more pro-active stance and actively promote and encourage this positive trend.

Private members' statements noted.

[*Mr Acting-Speaker (Mr Paul Lynch) left the chair at 6.22 p.m. The House resumed at 7.30 p.m.*]

ROAD TRANSPORT LEGISLATION AMENDMENT (DRUG TESTING) BILL

Second Reading

Debate resumed from 19 September 2006.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [7.30 p.m.]: I lead for the Opposition on the Road Transport Legislation Amendment (Drug Testing) Bill, which pertains to random roadside drug testing. The Opposition will not oppose the bill in this place, but we seek a number of assurances about a range of concerns regarding the bill and we reserve the right to move amendments, or possibly oppose the bill, in the Legislative Council. This situation arises because the Minister for Roads has not seen fit to consult with either the Opposition or a number of stakeholder groups on this legislation.

Four years ago the then shadow Minister for Roads, Don Page, called for random roadside drug testing following moves by the Victorian Government to implement such testing, and in light of a number of studies that had indicated that the presence of drugs in the system of many drivers, particularly those involved in accidents, was an issue in Australia. Now, after nearly 12 years in government, the Carr-Iemma Labor Government is finally moving, but, once again, with the objective of managing the headlines rather than the problem—a point to which I shall return.

The Opposition has spoken to a number of stakeholder groups, including the NSW Road Transport Association and the NRMA, and the feedback we have is that these groups, while not opposing the legislation, have expressed some concerns about parts of it. Some of the concerns expressed by stakeholders include the following. First, the Government's program of random roadside drug testing will be funded via a further levy imposed on motorists, being a $2 increase in licence fees. This fee will realise nearly $10 million on top of the fees already contributed by licence holders. This can be seen as the slugging of responsible drivers with, effectively, a new tax to pay for something that ought to be a core program within government. It can also be seen to be a pre-election stunt by this Government because it has put forward at this stage, by way of a press conference, a Winnebago-style bus, which comes at a cost of around $350,000.

One must ask what is happening with the remainder of the $10 million per annum raised by way of this levy on top of licence fees. It could be seen as profiteering on the part of the Labor Government, merely designed to help fill its budget black hole. It has been raised with me that motorists are concerned that this levy is, effectively, a new tax and that despite promising no new taxes the Carr-Iemma Labor Government has, in fact, introduced many new taxes and increased many others, including recent increases in stamp duty, the fire service levy on insurance products and the waste and environment levy, new mining charges to pay for government regulation, new measures on mortgage duty, the additional $20 to pay for green slips, and increases to electricity and water charges.

These various charges, in combination with the additional levy on driver licences, hits hardworking families who are already feeling the pinch in their household budgets. But, once again, the Labor Government expects them to pay for its economic incompetence. The question that is repeatedly asked of the Opposition, and I would expect of the Government too, is: Where has all the money gone? The citizens of New South Wales want better services, they want higher standards, and they want balanced budgets, but after nearly 12 years the Carr-Iemma Labor Government is clearly delivering anything but.

The second area of concern is the lack of sufficient resources for police, and the consequence that they cannot properly conduct random roadside drug testing across the entire State. When statistics consistently indicate that some 60 per cent of road fatalities are occurring on country roads, it is indeed a concern that at this point there is only one bus available for this program, which obviously cannot properly address the drug-driving problem across the entire State. As I said, rolling out a Winnebago-style bus for a press conference to convince

the people of New South Wales that something is actually being done about drug-driving is regarded by many people as simply a pre-election stunt.

The question has been asked: Why spend in the order of $400,000 of taxpayers' money to buy and fit out this bus that has been rolled out to the media? Why would you not use some of the surplus government or State Transit buses for the same purpose and roll them out more widely? Indeed, the Opposition wants an assurance from the Minister that the drug testing kits will be widely available across the State, not just in one bus that has been rolled out for a press conference.

The third concern that needs to be addressed in the Government's response relates to the belated introduction of the legislation, despite the Government's knowing for some eight years about a link between illegal drugs and road fatalities in New South Wales. I refer to a study back in 1997-98 that found that approximately 24 per cent of drivers involved in fatal accidents in New South Wales were found to have drugs in their system. Given that nearly three years ago the Victorian Government moved to implement random roadside drug testing, why has it taken so long for this Government to introduce similar measures? On 11 November 2004 the then roads Minister—three roads Ministers removed—announced in this place that legislation to allow random roadside saliva drug tests would be introduced, but it was not introduced until some two years later.

The question must be asked: Why did the Government take so long to introduce the legislation when it knew that another study indicated that 43 per cent of drug users admitted to driving while under the influence of drugs in 2003? How many people have died on New South Wales roads because of drugged drivers as a result of the Labor Government's procrastination, delay and inertia in introducing this legislation? If one crunches the numbers based on the 1997-98 study that showed that 24 per cent of road fatalities involved drugged drivers, and a road toll of more than 500 in each of the past two years, one realises that more than 200 people were killed on New South Wales roads because of the delay in introducing legislation. Earlier I made the point that the Government has had nearly 12 years in power. It has had enough time to get the basics right, particularly when other jurisdictions have already gone down that path.

One must ask the question: How long will it be before police can charge drivers under this legislation for driving while under the influence of illicit drugs? When does the Government expect to roll out the first tranche of random roadside drug testing? When does it expect to charge people with offences under this legislation, and how widespread will it be? Those questions rightly need to be answered. The road transport industry is concerned that truck drivers will be targeted, and the statements by the Minister for Roads in the other place indicate that that is likely. Indeed, the Minister indicated that there may be continuing amphetamine use among truck drivers. That may be so, but based on the Government's actions and statements about the New South Wales road transport industry, truck drivers rightly feel they are whipping boys for the Government's incompetence on a range of issues, particularly road infrastructure.

I instance the M5 East tunnel, which was under-engineered and whose traffic estimates were way out of whack, resulting in a significant air quality problem in the tunnel. The tunnel has no filtration, the ventilation system is not up to the task, and the traffic volume is way above what was initially estimated. What was the Government's response? It blamed truck drivers! It targeted truck drivers; it installed cameras to ping truck drivers! However, the truck drivers are not at fault; the Government is at fault.

It has been suggested that by introducing this legislation as a pre-election stunt the Government may seek once again to unfairly target truck drivers and make them scapegoats. If there is drug abuse and amphetamine use in the road transport industry, that must be cleaned up. However, the way to do that is by working with industry representatives, not by introducing legislation by way of a pre-election stunt and then unfairly targeting specific drivers. Drug use is much more widespread than simply in the transport industry. In response to a question from the Hon. Michael Gallacher on 7 September, the Minister for Road said:

> As part of the strategy we will also target heavy vehicle drivers because there seems to be a fair bit of evidence of the abuse of amphetamines in the heavy vehicle industry.

The Minister indicated that that would rightly send alarm bells ringing in the transport industry that truck drivers will be targeted. The implications of that come at a cost to the industry. If truck drivers are targeted for random roadside drug testing, obviously that will come at a cost to the transport industry and ultimately to consumers of all sorts of products in this State. The legislation needs to be fairly applied. I ask the Minister responsible in this place to address that issue before the legislation gets to the upper House, to ensure that the Opposition is able to maintain its position of not opposing the bill.

Stakeholders are concerned that emphasis is placed on large fines, rather than on implementing longer licence disqualification periods to keep people who take illegal drugs and drive off our roads for longer periods. That issue needs to be addressed. Is the Government about revenue raising or road safety? If it is about road safety, the period of disqualification should be the emphasis, not the level of the fine. Finally, I note that in the second reading speech the Minister indicated that random roadside drug testing would detect a number of drugs, particularly THC, which is the substance found in cannabis or marijuana, speed or amphetamines, and ecstasy. Obviously, a number of other drugs may affect the driving skills of New South Wales motorists.

In particular, I note that there is a trend in this State to use methamphetamine. Younger people are taking this substance, which is more widely available in New South Wales. I ask the Minister whether the test will pick up the presence of that drug? Can the test pick up the presence of other drugs, including heroin and cocaine, which are also prevalent in this State? Given that some 43 per cent of drug users indicated they were prepared to drive, or had in fact driven, while under the influence of drugs in 2003, we need to consider drugs other than the three mentioned by the Minister.

The Nationals acknowledge that drug driving is a problem in New South Wales—and, in fact, throughout Australia and probably in all developed countries. It is spreading throughout this State and into rural and regional areas where there is limited transportation. The lack of public transport is a factor in the decision by people to drive while under the influence of drugs. A 2003 Bureau of Crime Statistics and Research report found that people who drive under the influence of cannabis in rural areas, including more than one in 10 people aged between 18 and 29 in the Lismore local government area, have at some stage driven a vehicle while under the influence of cannabis. That study was undertaken some three years ago and there has been a delay of almost two years in the introduction of this legislation.

Another study conducted on the Central Coast by the University of Newcastle found that, in a three-year period, 16 people under the age of 45 who were killed in road accidents tested positive to alcohol or drugs, or both. The study also found there is no apparent reason why the results could not be representative of New South Wales. It has taken almost two years for the Government to introduce this legislation following its announcement that it would do so. At this stage the Coalition does not oppose the legislation. It is necessary and it should have been drafted a long time ago. We believe that a number of people have died as a result of the Government's procrastination and delay.

A number of concerns have been expressed by stakeholders, not least of which is the additional taxation resulting from the Government's financial incompetence. I seek a response from the Government in relation to the other concerns I expressed. It would not have been necessary for me to seek this response if I had been briefed by the Minister and if the Minister had properly consulted with the stakeholder groups. I seek those responses as a result of the Minister's omission. Pending his response, the Opposition may or may not move amendments in the other place.

Mr STEVEN CHAYTOR (Macquarie Fields) [7.51 p.m.]: I support the Road Transport Legislation Amendment (Drug Testing) Bill 2006. I preface my comments by stating that I look forward to the day when drug testing will have a similar effect to the testing for alcohol to improve safe driving and driver awareness in New South Wales and throughout Australia. Random breath testing has been a great success in New South Wales during the past 20 years, and I look forward to the day when police, empowered with authority from this Parliament, will be able to conduct random drug testing. This legislation is the first step in that process. It will ensure that drivers on our State's roads are free from the influence of not only alcohol but also drugs.

First, the bill authorises the compulsory drug testing of any driver, motorcyclist or supervising license holder involved in a fatal traffic accident; and, secondly, authorises the commencement of random roadside drug testing, using oral fluid samples to detect the presence of illicit drugs, including cannabis, speed and ecstasy. Research commissioned by the Roads and Traffic Authority showed that approximately 25 per cent of drivers killed in New South Wales in 1997 and 1998 had consumed drugs. Further studies in 2003 found that 43 per cent of drug users admitted to driving while affected by drugs.

Honourable members would be aware of the trials undertaken in Victoria as a result of legislation passed in that State, which was successful and has been improved on in this bill. I do not think any member would disagree that motorists need to take responsibility for their actions when they get behind the wheel of a vehicle. The bill introduces new laws to target motorists who use drugs and then drive, and we should not be ashamed of the targeting of them. We heard a little while ago from the Leader of The Nationals that he was concerned about the targeting of drivers in relation to this bill.

I believe that all drivers—truck drivers, car drivers, motorcyclists—and supervising licence holders should be targeted. Every category of driver should be targeted in order to improve road safety for all road users. The Leader of The Nationals referred in particular to truck drivers and I acknowledge his concerns. I also acknowledge the concerns of members of the wider community who have clearly stated that they want our roads to be as safe as possible. One issue of great interest to me concerns the use of cannabis by drivers, particularly young people. Criminology research clearly shows a high and concerning use of cannabis by young people in particular. There is no excuse for anyone who has consumed cannabis to get behind the wheel of a vehicle and drive. It is unacceptable behaviour, just as it is unacceptable for a truck driver or motorcyclist to do so. Such behaviour places the lives of all road users at great risk, not only the drivers but their passengers, other road users and pedestrians. The bill targets that issue and is to be welcomed.

The bill will increase police powers to detect drug driving by allowing for random roadside drug testing. Specially trained police will be able to conduct on-the-spot tests with portable drug screening equipment. As with testing for alcohol, it is the very random nature of drug testing, the element of surprise, that sends the message to all drivers: "Do not take the risk because you never know when and where you may be tested." While some members may think that the most appropriate place to conduct random roadside drug testing would be at Taylor Square, Darlinghurst, it needs to be conducted everywhere throughout New South Wales, because it is the very random nature of the testing that will ensure a greater level of protection for the community.

I note that police will be given not only extra powers but also a higher level of training to conduct these on-the-spot tests. New South Wales should follow the example of Victoria, where police have been given the training to ensure that the public are tested in an appropriate manner, and certainly in accordance with law and the rights of drivers and the community. The bill introduces a new offence of driving or attempting to drive or supervising a learner licence holder while illicit drugs are present in the body. This new offence is in line with a lower range drink driving offence. First-time offenders will lose their driving licence for at least three to six months and face fines of up to $1,100. Repeat offenders will be fined up to $2,200 and will lose their licence for at least six months.

I think the severity of those penalties sends a clear message to the community that if they take these risks and put themselves and others in danger they will expose themselves to the loss of their licence and incur a financial penalty. That is a welcomed initiative in the bill. The bill also creates a new offence and penalties for refusing to undertake a roadside test. Following a fatal crash, or a serious crash that is likely to be fatal, the bill gives police the power to arrest any drivers, riders or supervising licence holders involved in the crash and transport them to a hospital to have a blood sample taken and to be tested for the presence of drugs.

It is important to find out not only the cause of the fatal crash but to ensure that justice is delivered. The criminal justice system is designed to ensure criminals are brought to justice. This is a serious criminal offence, and the process proposed in the bill for the testing of drivers involved in a fatal crash, or a crash likely to be fatal, ensures that those who are responsible for endangering their own lives and those of others are brought to account under our criminal justice system. Police can charge motorists with the more serious offence of driving under the influence of drugs, which carries penalties including nine months gaol and unlimited licence disqualification. It is appropriate that these measures are very tough and send a strong message to the community at large. Tough penalties are a deterrent to this type of behaviour. That is a strong feature of the bill.

The drug-testing bill was developed after extensive consultation between the Roads and Traffic Authority, NSW Police, NSW Health, the Attorney General's Department and the Motor Accidents Authority. I note the comments of the Leader of the Nationals in relation to consultation. This issue has been on the table for some time. Victoria certainly played the leading role and an improved role is now being played by New South Wales. To be unaware of the issues involved in the bill is to be unaware of one's responsibility as a member of Parliament to ensure that our roads are as safe as they possibly can be.

In essence, the bill creates new drug-driving offences. It will ensure that police are appropriately trained to test for these new offences. The bill will also ensure that those who cause grief to victims, to themselves and to families and friends because they use drugs and endanger lives—whether they are driving a truck, in a motor car or on a motorcycle and whether they use drugs for recreational purposes or for any other purpose—will understand there is no place for that activity on New South Wales roads. I commend the bill. It is certainly a bill whose time has come. Legislation of this type must always be accompanied by government policies that try to limit the use of drugs in society at large. By limiting the use of drugs, an important government objective, we will go a long way towards improving our society. At the same time we must send a

strong message that using drugs and endangering the lives of others, particularly on the roads, is punishable by law and is unacceptable.

Mr DARYL MAGUIRE (Wagga Wagga) [8.02 p.m.]: The bill provides for the introduction of a regime of random roadside oral fluid drug testing for the presence of certain specified illegal drugs in the driver's body. It amends existing legislation regarding the drug testing of persons involved in fatal motor vehicle accidents and for offences relating to driving a motor vehicle with certain drugs in the driver's oral fluid, blood or urine. The bill creates a new offence of driving a motor vehicle with morphine or cocaine in the driver's blood or urine. Importantly, the bill proposes to increase the period from two hours to four hours after driving during which a person can be required to submit to a sobriety assessment or to provide blood and urine samples.

We know that there is a relatively invariant relationship between alcohol and impairment of driving performance: the higher the concentration of alcohol in the body the greater the degree of impairment. In relation to drug-driving the issues are more problematic, but with modern research and technology we are now in a position to make inroads. During the past several decades we have made progress in understanding the effects of drugs on driver behaviour. Let us look at the conclusions of the Staysafe committee in 1992, more than a decade ago:

> The nature and extent to which drugs, other than alcohol, are a serious road safety problem cannot be specified with certainty at this time.
>
> A growing body of literature suggests that certain drugs (e.g., marijuana) impair psychological and behavioural abilities that are functionally related to driving, even though the extent to which drug impaired driving causes crashes cannot be inferred from this research. The accumulating evidence suggests there is a risk posed by driving after consuming some drugs at high dosage levels.
>
> Drugs that may impair driving include certain prescription and over-the-counter drugs as well as illegal drugs.
>
> Drugs are quite often used in combination with high doses of alcohol, so that understanding the combination (or cocktail) effects of drugs and alcohol is important.
>
> The frequency with which drivers drive, are arrested, or crash while under the influence of drugs other than alcohol is not known. However, the available data on drug use by crash involved drivers suggests that the drug and driving problem is substantially less than the alcohol and driving problem.
>
> It may not be possible to establish specific levels of drugs in body fluids that are associated with driving impairment (as has been done with alcohol).
>
> The drugs that appear to have the most potential to be serious highway safety hazards (based upon currently available information regarding incidence and impairment): Tranquillisers (e.g., Valium, sedatives and hypnotics (e.g., barbiturates), and marijuana.

Even in 2000 Staysafe reported that in 1998 NSW Health had conducted an examination of the potential for using roadside testing devices to screen for drug-driving offences. NSW Health advised the Premier that the success of random breath testing for alcohol impairment in drivers as a population strategy lay in the degree of accuracy available within the testing technology and the corresponding well-known links between driver impairment and levels of alcohol consumption. NSW Health advised that at that time—that is, in 1998—neither of those characteristics was true for roadside drug-driving identification. Things have moved a long way since then, but in 1998 the Staysafe committee was well and truly over this issue. The honourable member for Ballina, who was a member of the Staysafe committee at the time, was calling for drug testing of drivers.

On Monday the Staysafe committee, of which I am a member, was questioning Superintendent Hartley, who is a regular visitor to Staysafe committee hearings, about this very issue. We were interested in the purchase of a Winnebago bus and the drug-testing process that would take place as a result of the implementation of this legislation. I asked Superintendent Hartley where the random drug testing was being utilised and what the plans were. He said that a Winnebago had been purchased. He said:

> The Victorian Police have purchased a purpose-built random drug-testing vehicle for $800,000. I went to Victoria last year when they commenced their trial to look at the equipment. They said the biggest problem was getting to and from locations. If they want to go to the country, truck drivers know when they are going to any location. They either do not drive their trucks or they take alternative routes because they have time to plan.

He suggested the reason the Winnebago, which cost $350,000, was bought was to prevent drivers becoming unaware of the police presence. Speaking of the Winnebago, he said:

> It is … fully equipped … so that police officers can park at any location and have their meal on board and use the toilet. Therefore, they do not have to go back to a police station to have a nature break or a meal break.

The vehicle is purpose-built for random drug and breath testing. It also doubles as a police operational vehicle if a vehicle with that equipment is needed. He said:

> While it looks very flash and fancy, it blends in with traffic and truck drivers will not get the message that we are there. They will first know when they see the vehicle on the road with support vehicles, lights flashing stopping them and testing for drugs.

They can spring their drug testing at any location. I asked Superintendent Hartley:

> Can the random breath testing buses you already have be utilised for drug testing?

He said:

> Yes, and they still will be. They will be converted for use in drug testing once we get this concept right.

The Winnebago is a work in progress. He continued:

> My demand of the RTA is that we not reduce our random breath testing capacity.

I am sure all honourable members would agree with that objective. Road safety is a major priority for everyone in this State and, indeed, the whole of Australia. We would all support road testing at the current level or at an increased level. I asked Superintendent Hartley whether road testing for alcohol and drugs could be performed at the one time. He replied:

> You can, but it is not as productive. It takes a lot longer to do drug testing and we have to train police. We need to ensure we do not reduce our RBT capacity. That is the reason for the conditions that I placed on this program. I said that we had to have a purpose-built vehicle that meant officers did not have to access a police station. It had to be a vehicle that we could park in the middle of Brocklehurst or wherever and perform our roles without impacting on other police operations.

I told Superintendent Hartley that his presentation was very energetic, which it was, and that that suggested to me he felt the drug testing program would be successful. He agreed. I said I thought there was a need for more drug-testing vehicles once the model had been put in place. He also agreed with me on that point. The Winnebago bus cost $350,000. The Victorian model cost $800,000. A levy of about $2 has been put on all driver licences. I understand that levy goes towards the cost of the $350,000 vehicle and, I assume, the operational costs of delivering the service on behalf of taxpayers and randomly drug testing motorists, motorcyclists, holiday travellers and so on.

I have some concerns I would like the Minister to address in his reply. How much money will be raised by levy from the taxpayers of this State? What are the operational costs of the initial implementation of one Winnebago and the police officers who manage and deliver the service? If, as Superintendent Hartley suggested, the program is successful and expanded to cover a larger area, how many buses will the New South Wales taxpayer be expected to fund and at what cost? If one bus requires a levy of $2 on each licence and the total amount raised is $5 million, $8 million or $10 million, can we expect that further charges will be levied on taxpayers to provide the service? If 10 buses are in operation, does that mean taxpayers will pay a $20 levy on licences, for 20 buses a $40 levy and so on? Will the initial amount of money levied on taxpayers cover the costs? I ask the Minister to provide that information.

A suggestion has been made that the current vehicles used for random breath testing [RBT] could be modified to carry out drug testing. Superintendent Hartley said that a completely independent vehicle for drug testing is beneficial for officers because it does not impact on the operations of a police station or the normal duties of police officers. Does that mean the current RBT buses are inefficient and outdated? Are they not in keeping with modern requirements because they do not have toilet and kitchen facilities? Perhaps we need to upgrade the current fleet of RBT buses, which, as Superintendent Hartley suggests, is outdated. When the Minister responds to my questions, we will have a clearer indication of future plans. Drug testing is an important step forward. I have no doubt that accidents occur as a result of people driving under the influence of drugs, whether they are driving heavy vehicles, motor vehicles and motorcycles. We need the resources to ensure that motorists are driving drug and alcohol free.

The bill provides for the first time practical roadside screening for drugs that affect driving performance, that is, THC, speed and ecstasy. This initiative will impact on young people who drive while impaired after taking ecstasy, injecting speed or smoking dope or marijuana. It will also impact on drivers who use speed as a fatigue offset so that they can keep driving longer and further. Emphasis has been placed on the trucking industry, and many articles have reported the use of drugs in that industry. I have attended conferences

where representatives of national trucking associations have been trying to come to grips with the use of illegal substances. A move to establish random drug testing will assist those responsible companies that are trying to stamp out drug taking. Much more needs to be done. Subject to the Minister's response to my concerns, I believe these measures will bring about safer transport and safer motoring in New South Wales.

The Staysafe committee is one of the most enjoyable committees I have had the pleasure of serving on in this Parliament. The committee's reports have always been unanimously adopted. We have never delivered a report on political lines. Road safety is an important issue to us all and it is important that committee members continue to deliver their reports in that spirit. I have spoken favourably in support of the bill, and it is important that the issues I have raised are responded to in the same manner. As I said, road safety is an important issue across the State and throughout Australia. Following the lead of the Staysafe committee, we need to treat this matter as a non-political issue. It is about saving lives and protecting the future of our young children, the drivers of tomorrow.

Mrs DAWN FARDELL (Dubbo) [8.17 p.m.]: I do not intend to speak for long on the Road Transport Legislation Amendment (Drug Testing) Bill. I will get straight to the point. As the member for Dubbo I am pleased that this amendment to the road transport legislation is before the House. I am particularly pleased because my predecessor, the late Tony McGrane, became involved in this issue when young Brendan Saul was killed by a hit-and-run driver. We now have Brendan's law, which relates to drivers or passengers who leave the scene of an accident in which a person has been injured. This is the last stage in the process. I am sure I speak for Kevin and Patsy Saul when I say that legislation gives some consolation to the family of Brendan Saul.

Kevin was pleased to hear that this amendment was before the House and indicated that he hoped it passed without complication. Brendan's family believes that the people behind the wheel of the car involved in the accident got nowhere near the penalty they should have received. They are still out in the community. They admitted they had drugs in their system but, because appropriate laws were not in place, during the four-hour period they were unable to be tested the drugs had passed through their system. They had freely admitted to drug use.

When this bill was introduced I was astounded by criticisms from Opposition members relating to the cost of special purpose-built testing facilities. What is the cost of a life? I do not mind paying an additional charge of $2 or $200 for my licence or my registration and I am sure that the majority of decent citizens, particularly those in the Dubbo electorate who are aware of the Saul family's horrific experience, would not mind doing so. I apologise if I appear emotional about this issue, but I believe that costs should not come into it. This legislation will prevent much heartache and give finalisation to many families who have lost loved ones or who have a family member who has been badly injured in a hit-and-run accident.

People undergo breath testing for alcohol but to date they have not been tested for drugs. I acknowledge the wonderful way in which Attorney General Bob Debus and Minister Beamer, in her role as Minister for Juvenile Justice, spoke to Kevin Saul and his family. I thank them publicly for the introduction of the bill. All members of the House should do the same. After making those comments I am sure that Opposition members will say I am too close to Labor, but so be it. I welcome this amending bill and I congratulate the Government on its introduction. I do not care how many Winnebagos we have. I do not think $350,000 is a great deal to pay. That is probably what it costs for a top-of-the-line Mercedes, which many people in this House or their friends and supporters are probably driving.

If this legislation enables us to bring people to justice, so be it. What is the cost of a life? People with drugs in their system are driving around all the time and in the past we were not able to test them. Earlier today the honourable member for Strathfield referred to the drug called ice. Some of the young people in my community who go to university tell me that in a class of 20 only two have not yet experimented with drugs. Young people and older members of our community who have drugs in their system are getting behind the wheel. Substance abuse has no end. The bill will enable certain drug tests to be carried out. If people are found to have drugs in their system while they are driving they can be fined, or they can lose their licences. I believe that the full strength of the law should come down upon them.

We must keep one step ahead of those smart people who will use other drugs and find loopholes in the law. I heard recently in the media that the first cab off the rank will be truck drivers. I know a lot of truck drivers in my electorate. My son has a road train licence. He said to me that he is aware of a number of people in his area who are taking illicit drugs. Police are active in this area and randomly conduct drug-testing operations.

Earlier the honourable member for Wagga Wagga referred to Superintendent Hartley. A great operation conducted in Brocklehurst not so long ago.

Following the death of young Brendan Saul, Commander Stewart Smith heard about this amending legislation. He spoke to me after I was newly elected and said, "Dawn, we must ensure that this legislation gets through." He is a strong supporter of the bill. I know he would like the first testing to be carried out in the Orana Local Area Command, so I hope Commissioner Moroney heeds his request. The Saul family and I welcome this amending legislation. Young Brendan Saul did not deserve to lose his life, and nor does anyone else. I strongly support the full weight of the law coming down on those who take drugs and drive. I strongly support this legislation.

Mr PETER DRAPER (Tamworth) [8.23 p.m.]: I support the Road Transport Legislation Amendment (Drug Testing) Bill. As the honourable member for Dubbo and other honourable members have said, it is a step in the right direction. People will now be tested for illicit drugs such as speed and ecstasy. One of the objects of the bill is:

> … to create a new offence of driving in a motor vehicle with any presence of morphine or cocaine in the driver's blood or urine...

As recreational drugs are prevalent in our society we must question why some acknowledgement has not been given in this legislation to the impact of ice and heroin on drivers. Several honourable members referred earlier to the additional costs that will be incurred as a result of the bill. I have no problem with paying additional costs. We will be catering for police officers that can make a difference in reducing our road toll, so we cannot quantify that valuable investment. In the Tamworth electorate steps have been taken to reduce the road toll by introducing a mobile police station, a proposal that is similar in nature to the Winnebago proposal. That unit is set up to respond to any sort of incident. It is also used for educational purposes as it visits schools, and staff members interact with young people.

Earlier there was a reference to the amount of money that the Government will receive as a result of this impost on driver licences. I do not believe that is the big issue. If we are making a difference by reducing the number of people on our road system who are impaired by drugs, I am sure that the vast majority of people in our community will welcome this legislation. Those who look sensibly at this proposal will have no problem subjecting themselves to a drug test if they are under any suspicion. Some years ago when I was a interstate truck driver I became aware that drug taking was prevalent in the industry and that truck drivers took little red pills and little blue pills.

I vividly remember working with a fellow who got up every morning, took two Vincents or two Bex, drowned it with coke, opened his eyes and off he would go and drive for 24 hours behind the wheel of a truck. Thankfully, he never had an accident but the potential for an accident was always there. Illicit drugs are found in every community, and country communities are not exempt. Young people who have limited driving skills and who are impaired by the use of recreational drugs are a recipe for disaster. Unfortunately, too many young people are killed on our roads. As I said earlier, I support this amending bill, which I believe to be a step in the right direction. However, I believe that questions relating to other illicit drugs should also be answered.

Mr RICHARD TORBAY (Northern Tablelands) [8.26 p.m.]: I support the Road Transport Legislation Amendment (Drug Testing) Bill. As a number of other honourable members have said, it is appropriate that this legislation has come before the House. People in public life interact with members of the community on broad range of issues. There is nothing more challenging than speaking to a parent or to family members who have lost someone through no fault of their own. Innocent parties can become involved in fatal accidents when drivers take illicit drugs or drive under the influence of alcohol. We heard earlier that any fatality is a tragedy. It is sad when someone loses a family member in an accident that could have been avoided if only the right messages had been sent.

People in our frontline services do a tremendous amount of work in tragic circumstances. As legislators we have a responsibility to ensure that we do everything in our power to help people in our frontline services to protect our communities and support innocent people. Communities work hard to support their local police and government and community organisations. One of the best examples of that is the Inverell community in my electorate. I congratulate Mayor Barry Johnston on his recent election. He established a mayor's task force, which has done tremendous work and which has a zero tolerance to drugs. Legislation such as this reinforces the work being done by the Inverell community and supports our frontline police and other services. We heard

earlier about increased costs and the proposed $2 fee, which I believe to be a small price to pay to save lives and send the right message to drivers.

Statistics have been presented demonstrating the effectiveness of these drug detection tests. It was alarming to see those figures and they confirm the need to support the passage of this legislation. As I said, the Government is not seeking an open chequebook. The amount raised and what is spent should be properly documented and published, and I believe that the community would overwhelmingly support that transparency. As a parent and a local member who, like all honourable members, works closely with my community, I believe we should all support this legislation. I commend the bill to the House.

Mr ROBERT OAKESHOTT (Port Macquarie) [8.32 p.m.]: I strongly endorse this legislation. One of my first jobs was with the Road Transport Forum, a peak lobby group for the road transport industry. I worked on a pilot program to get truck drivers healthy. I thought that meant providing lessons about diet, fitness and health. However, I quickly realised that the most important and the most difficult discussion that had to take place as soon as possible related to the impact of the significant amount of drugs being taken by truck drivers. Those discussions were somewhat unsuccessful. Any honourable member who has had an honest conversation with a long-distance truck driver in New South Wales would have first-hand insight into an industry that has a significant drug use and abuse problem. I hope this legislation will address that issue.

We will not debate this legislation again and there will be plenty of fanfare about its introduction and enactment. I would like to see reports of drivers being picked up over the months ahead after that fanfare fades away. This is more about action on roads such as the Pacific Highway than it is about speeches in this place and press conferences today and tomorrow. I strongly urge the Government to report to the House about how well this legislation is being implemented by the authorities to address a well-known and real problem in the road transport industry. It has implications for all road users, particularly in areas such as mine, through which trucks travel on the Pacific Highway. The interface between interstate heavy transport and local passenger traffic on the highway is a dangerous cocktail, and throwing drug-driving into the mix only adds to the dangers. I strongly endorse this legislation. I hope I am proved wrong and that the police and the authorities enforce it and that drug use by long-distance truck drivers in the New South Wales and throughout the country is minimised

Ms ALISON MEGARRITY (Menai—Parliamentary Secretary) [8.34 p.m.], in reply: I thank all honourable members for their contributions to this debate. It is a necessary and emotional debate for those of us who have spoken to people who have lost members of their families in tragic circumstances not of their own making in which the offender—who often seems to be the one to survive—was affected by drugs. An accident along those lines occurred in my electorate in June. I will not go into details about it; suffice to say that it is a very sad situation.

Members of the Opposition asked why drugs such as ice were not being targeted. To correct the record and so that everyone is clear, ice is being targeted in random roadside drug testing and it will be detected. The Leader of The Nationals spoke about the heavy vehicle industry and seemed to suggest that a vendetta was being waged against truck drivers. I assure the House that no single group is being targeted. The industry involves large vehicles and, as the honourable member for Tamworth said, drivers spend long hours on the road, so those vehicles can be very dangerous. However, it is important to point out that those drivers are not the only targets. The venues associated with recreational drug use have not been referred to extensively in this debate, but there is a strong link between recreational drug use, nightclubs and driving after taking drugs. Extensive research has been done on the issue and it is being examined as part of this legislative process.

Mention was made of random drug testing versus random breath testing. I assure honourable members that random roadside drug testing is an extra initiative undertaken by NSW Police over and above drink-driving enforcement, such as random breath testing. One activity will not be favoured over the other. Random roadside drug testing is about keeping off our roads motorists who take drugs and drive. Existing drug-driving legislation allows police to drug test motorists in limited circumstances. The Iemma Government is giving police the power to drug test anyone driving, attempting to drive, or supervising a learner licence holder. For the first time in New South Wales, police will be able to randomly drug test motorists at the roadside.

The bill allows police to test drivers for the presence of three illicit drugs in oral fluid. These are speed, ecstasy and THC—the active ingredient in cannabis. These drugs are illegal, they are the most commonly used drugs in the community and they all affect the skills and sound judgment required for safe driving. This legislation will make New South Wales one of the first administrations in the world to conduct random roadside drug testing. It sends a clear message to motorists that driving with any amount of those illegal drugs in their

body in New South Wales will not be tolerated. Drug-drivers are a threat to everyone using our roads and these enhancements to the road transport legislation are designed to remove that threat. This Government is giving police the laws, the powers, the resources and the support they need to drive down crime. This bill is consistent with the Government's commitment to law and order and to ensuring that New South Wales roads are safe for all road users. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT (PARENT RESPONSIBILITY CONTRACTS) BILL

Message received from the Legislative Council returning the bill without amendment.

ROAD TRANSPORT (GENERAL) AMENDMENT (INTELLIGENT ACCESS PROGRAM) BILL

Second Reading

Debate resumed from 6 September 2006.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [8.39 p.m.]: I lead for the Opposition in relation to the Road Transport (General) Amendment (Intelligent Access Program) Bill. At the outset I state that the Opposition does not oppose this legislation. However, I raise some concerns that have been expressed to the Opposition by a number of stakeholder groups and I request that the Minister for Roads address these to the satisfaction of the Opposition prior to the passage of the bill through this House. Members would no doubt be aware that the Intelligent Access Program is part of the AusLink bilateral agreement with New South Wales, the other States and the Federal Government that has been linked with the roll out of higher mass limits in this State in particular.

The Opposition believes that the roll out of higher mass limits is extremely important in New South Wales and that it is overdue with respect to the competitiveness of the road transport industry in New South Wales. We support the use of technology that will assist in the implementation of this process, not only the competitiveness of the road transport industry, but also the competitiveness of other industries in New South Wales. For instance, Casino Meatworks, which is located fairly close to the border and transports meat via road across the border into Queensland—with some of that meat bound for export—is subject to the differing levels of regulation and restriction between Queensland and New South Wales. Queensland accepts higher mass limits while New South Wales is lagging behind. That has had a major effect not only on the transport industry but also on that particular business.

I instance also Fletchers Abattoir at Dubbo, which is a major exporter of primary produce. It wants to use larger container sizes, which are the trend in transport internationally via road, rail and port, but again New South Wales is lagging behind, restricting the competitiveness of that industry and the road transport industry. New South Wales is the most overregulated and least flexible State when it comes to transport across-the-board—road, rail and port. New South Wales is lagging not only in higher mass limits but also in volumetric loading and harvest schemes, which are in place in other States. Indeed, a number of operators have moved their headquarters to other States to take advantage of the lower levels of regulation and taxation, and the more favourable operating conditions generally. For example, Lindsay Brothers, whose headquarters were formerly in Coffs Harbour, has now moved its operations to Brisbane. A number of operators have indicated to me that they are looking at relocating to other jurisdictions because of the intransigent attitude of the Carr-Iemma Labor Government when it comes to road transport.

However, it seems that finally the Carr-Iemma Labor Government is at least considering implementing higher mass limits on some of the road network in New South Wales. In so doing it is linking this issue to the use of the Intelligent Access Program, which involves the use of intelligent transport systems. This principle involves the use of electronic or other technologies that have the capacity and capability to monitor, collect, store, display, analyse, transmit or report information relating to vehicles, drivers, operators or other persons involved in road transport. I have seen such systems in use by a number of operators, including Pearson's Transport based at Port Macquarie. They are highly sophisticated systems: they provide online, real-time data on vehicles in use on New South Wales roads. They involve the use of global positioning satellite [GPS]

technology; they can indicate the speed, location, load, last rest breaks of drivers, scheduled maintenance requirement, and scheduled arrival time of freight. They are very highly sophisticated and most of the large operators have implemented such systems. These operators are quite prepared to allow the use of the systems if it is going to mean a more flexible approach to higher mass limits.

The Opposition has consulted with interested groups, including the New South Wales Road Transport Association, in relation to this legislation and, as I indicated earlier, we do not oppose it. However, the association and others involved in the industry have expressed some concerns. I wish to make it clear that the Parliamentary Secretary, in his second reading speech on 6 September, did not clearly and truthfully outline the views of the New South Wales Road Transport Association on the legislation. Whilst that association worked co-operatively with the Government in relation to the development of the legislation, it does not support the bill outright, as indicated by the Parliamentary Secretary. Indeed, the association was not consulted regarding the contents of the bill prior to the second reading.

Just this morning members of the Roads and Traffic Authority briefed a representative of the New South Wales Road Transport Association on the bill. However, such a late briefing meant there was no opportunity for members of the association to be fully briefed, nor was there an opportunity for the association to provide feedback to the Minister for Roads prior to the introduction of the legislation. I add that the Minister for Roads also did not bother to brief the Opposition, as has been the custom in this place for a long time. It is extremely poor form that with two bills in this place tonight the Minister for Roads has not bothered to brief the Opposition or to properly consult with stakeholder groups.

I take this opportunity to inform the Government of concerns that have been raised with the Opposition, and to highlight the importance of the road transport industry to the New South Wales economy, which, of course, is in a bit of a mess at the moment after 12 years of the Carr-Iemma Labor Government. Last year the value of the road transport industry's gross domestic product was $13.7 billion. The industry employs more than 215,000 people and transports more than 1.696 billion tonnes of goods per year. The road freight task trebled between 1980 and 2000 and is set to double again by 2020. The roads share of the domestic freight task in tonne-kilometres has risen from 22 per cent in 1980 to 36 per cent in 2000 and is forecast to increase by 42 per cent by 2020. Moreover, the road freight task is forecast to grow 30 per cent faster than the economy as a whole between now and 2020, and the rate of growth in the road freight task is greater in rural and regional areas than in urban areas.

An assurance must be given to the road transport industry, and more broadly to the community, that the Intelligent Access Program will be commercially attractive to road transport operators, that it will address compliance concerns, and that it will be capable of use on existing GPS systems that are currently in place with a number of transport operators in this State. The Government needs to provide clear detail about the upfront and ongoing costs for truck operators, which are ultimately passed on to consumers by way of the price of goods. Freight is one factor in the price of goods sold to consumers at the retail level. The Government is wrong if it thinks these issues can simply be swept under the carpet.

Given that road freight is such a significant component of freight in this nation and this State, and given that freight is a significant component of the cost of goods sold, it would be wrong to assume that increased freight costs are not an issue. Truck owners and operators are already slugged with high fuel prices—the cost of diesel has certainly gone through the roof in recent years—and many other taxes and expenses, not the least of which flow from government regulations. I include workers compensation, occupational health and safety and other regulations such as the fatigue-related long distance regime that came in on 1 March, the three strikes legislation, the chain of responsibility legislation. All of those impose a heavy regulatory and taxation burden on transport operators in New South Wales.

Transport operators should not be punished further because this Labor Government has failed to consider the financial implications of a further regulation on the road transport industry. Taxes and charges paid by road transport operators in Australia total more than $1.6 billion per year. B-double and road train owners in New South Wales pay approximately $7,850 and $8,100 respectively per year in taxes and charges. It is also a concern that the Intelligent Access Program [IAP] could become an enforcement tool rather than a compliance tool. It is proposed that the IAP will generate exception reports when a driver goes off course, rather than issue infringements. The industry wants an assurance from the Government that that will not be the case.

The Government is receiving a lot of private information that is available only to it. We want an assurance that the Government will not use that information as simply another means to impose fines and raise

revenue from New South Wales truck drivers. The industry believes there is potential for the IAP to become an enforcement tool if repeated and blatant breaches of operating conditions take place. No-one wants cowboys on the roads, but this legislation is about the IAP being used to facilitate higher mass limits, not to facilitate more revenue raising and fining transport operators in New South Wales. It is important that operators and drivers who comply with the legislation are not penalised for operating under the IAP.

I raise this issue because of the predilection of the latest in a long line of Labor roads Ministers to use the New South Wales road transport industry as a whipping post for the Government's shortcomings, particularly in relation to road infrastructure. I instance the M5 East Tunnel. The Government delivered a tunnel that was under-engineered, and it used wildly inaccurate estimates of traffic volumes. It then turned around and blamed the road transport industry and the truck drivers.

Cameras were installed in the tunnel because the Government said the pollution problem was caused by trucks. However, it was not the fault of trucks; it was the fault of the Government, which had not properly planned for transport in this State in an integrated way. The Government lagged behind in terms of providing intermodal hubs to deliver containers to Port Botany. The tunnel was under-engineered, no filtration was installed, and the ventilation system is unable to cope with traffic volumes. It is no wonder the transport industry is worried about the Government's intentions in relation to the Intelligent Access Program legislation, given that scapegoating is a valid concern.

The Government needs to provide an assurance that the applicability of current global positioning and monitoring systems do not become obsolete, and that legislative and regulatory mechanisms will exist to address perceived concerns regarding the protection of commercially sensitive information. We want an assurance that systems currently in place will be able to be used as part of the Intelligent Access Program. The Minister must guarantee that heavy vehicle operators will not be targeted by way of a big brother operation, and that confidentiality and privacy will be upheld. No-one is suggesting that blatant breaches of the law in terms of the higher mass limit access regime, let alone other breaches, should be disregarded by the Government or the authorities. However, information collected from these intelligent data systems must not be used for a range of other political purposes, as is the Government's wont.

The last thing transport operators want is yet another slug on their businesses to replace current systems to meet the Government's red tape obsession; nor do they want the Intelligent Access Program to become the Government's backdoor way of using the trucking industry as a scapegoat. There is still uncertainty about the time line for the certification of telematics, that is, the IAP service providers. So far none has been certified, and according to Transport Certification Australia none will be registered until at least 2007.

The Opposition supports the roll-out of higher mass limits and the use of technology to facilitate this process. However, I highlight the fact that Victoria—which currently enjoys 99 per cent higher mass limit access compared with New South Wales, with 6 per cent higher mass limit access—has also introduced IAP legislation that is not linked to higher mass limits. I ask the Minister in this place representing the Minister for Roads to address these concerns prior to the debate in the other place. If these issues are not addressed the Opposition reserves the right to amend or even oppose the legislation in the Legislative Council. If arrogant Eric had bothered to properly consult industry and brief the Opposition, this situation could have been avoided.

Mr DARYL MAGUIRE (Wagga Wagga) [8.57 p.m.]: The Road Transport (General) Amendment (Intelligent Access Program) Bill allows for a modern approach using motor vehicle telematics involved in global positioning technologies to monitor, manage and control aspects of a driver's performance in manoeuvring a vehicle within the road transport network. The bill also addresses how road freight can be managed in New South Wales into the future. It incorporates the provisions of the National Transport Commission's national bill for the Road Transport Intelligent Access Program Act 2005, approved by the Australian Transport Council in December 2005. The Intelligent Access Program is voluntary, and provides the technical, legal, administrative and commercial framework to allow road authorities to use technology such as global positioning systems to monitor heavy vehicles for compliance and enforcement purposes while offering productivity benefits to the trucking industry.

New South Wales roads handle about 80 per cent of the national road freight task. That includes freight movements within New South Wales but also freight movements involving destinations in other States and Territories. New South Wales is, of course, a centrally located State through which freight and people transit to and from Victoria, South Australian and Queensland. There are significant issues for New South Wales in how we handle this freight task, notably in terms of road safety concerns but also road infrastructure capacity. The

last couple of decades have seen massive technological change to heavy vehicles, and an associated process of regulatory reform that has been, to be frank, massively slow.

Over the past 15 years since the signing of the national Heavy Vehicles Agreement there has been a steady but slow-moving reform of road transport. The process should have been faster because our society, our economy, and the technologies we use have been changing much faster than they did in the past. It is predicted that by 2020 there will be an extra 50,000 heavy trucks on Australian roads, and the Staysafe committee estimates that there will be about 40,000 more trucks in New South Wales in the next 15 years. That is the prediction, and it is conservative.

As well, there is an inexorable move towards higher mass limits on heavy vehicles, and we need to ensure that the roads on which those heavier vehicles operate are capable of carrying them and their loads safely and efficiently. The Intelligent Access Program is a way of ensuring that heavier, more massive vehicles operate only on approved roads and operate safely, and that the expensive road infrastructure that is provided is protected from damage. Vehicle telematics enable the provision of services to road freight operators that can monitor the compliance of vehicles with respect to access conditions set by an individual jurisdiction, such as New South Wales. The ability to accurately monitor compliance provides a whole new set of opportunities for the State Government and transport operators to manage and optimise performance, improve road safety, and protect the road infrastructure.

Under the Intelligent Access Program, heavy vehicle compliance is monitored via the tracking of vehicle location and the reporting of associated other parameters. The objective is the implementation of a voluntary system that will allow the remote monitoring of road freight vehicles using satellite-based telematic services to ensure they are complying with their agreed conditions of operation, that is, ensuring that participating trucking and logistics companies are operating how, where, and when they should be. Roads authorities, such as our Roads and Traffic Authority, can set permit conditions on the access of a particular vehicle, a combination, or even a particular delivery to a known location, and then are able to monitor compliance with the conditions of the permit.

The Intelligent Access Program is a demonstration of the feasibility and application of on-board telematic systems for monitoring and reporting how drivers are operating their vehicles. Over the past few years the Staysafe committee has been investigating intelligent speed adaptation [ISA], a system that combines global positioning systems data about locality with speed zoning information relating to a particular road. In its full version it prevents the driver from exceeding the speed limit on that road. It does not have to be a fully limiting system; it can be used as a driver advisory system to inform drivers that they are exceeding the speed limit for that section of road, but allow them to exceed it if they choose.

I drove a vehicle equipped with an ISA system in Melbourne. It responded, via satellite, to speed signs, and it was a wonderful experience. We visited a university to test the equipment firsthand. It is fascinating technology and it offers great benefits. The Intelligent Access Program demonstrated the possibilities that lie just over the horizon in terms of how we manage New South Wales roads into the future. We can implement practical and effective programs that use satellite-based telematic services to monitor and track motor vehicle parameters. That is what the Intelligent Access Program is about. But in concept it is a comparatively easy step to incorporate speed zone and speed limit data that can be combined with vehicle location data to provide the capacity to monitor, manage, and control vehicle speed.

I can see a future, now closer than many of us think possible, where excessive speeding will be the exception. The Intelligent Access Program bill is innovative legislation. The shift in thinking is the foretaste of a newer, safer future for motorists as we become accustomed to the new opportunities offered by on-board telematic systems. At the same time, I am bothered by the length of time it takes to reform our heavy vehicle regulatory environment. Business and vehicle technologies are streaking ahead of the reform and regulatory process. The industry and government need to make faster responses to new technology possibilities in road freight opportunities.

Prior to the last election, road industry groups lobbied members of Parliament about the possibility of increasing mass limits, volumetric loading, and the dysfunction that New South Wales experiences with road regulation and rules, compared with Victoria, Queensland and South Australia. Under a Labor Government New South Wales has been habitually slow to put in place legislation to make the trucking industry more competitive and allow truck drivers to travel from State to State without breaking the law.

Roger Fletcher, the owner of the abattoir at Dubbo, was an advocate for international loading. His business was uncompetitive because of the draconian way in which New South Wales slowly went about addressing the legislative measures required to bring the business into modern times and a competitive world. Volumetric loading relates to the way stock—cattle, sheep or whatever—are loaded onto trucks. Previously they were loaded by weight rather than volume, and that meant that the trucking industry was carrying stock in trucks that were only half full or three-quarters full. That was unsafe for the animals being transported, because the movement of the vehicle could result in damage to them.

The industry was advocating improvements to loading and a better system of road networks that could be utilised by B-doubles and by vehicles with new air suspension. Trucks, semitrailers and B-doubles—and, into the future, probably B-triples—on Australian roads are now more road friendly than they were in the past. They are designed to carry heavier mass limits and to be more road friendly. Those vehicles have been traversing our roads for quite some time but, once again, the Government has been very slow to respond to their needs. The conga-line of road transport Ministers has been slow to embrace technology and allow the road transport industry to become competitive. I hope this legislation will assist the industry.

The Leader of The Nationals asked that various concerns be addressed in the Minister's reply, and he reserved the right to move amendments in another place. I think that is fair and reasonable. On the face of it, much more needs to be done to monitor speed and implement technology. I forecast that this technology will soon be available for drivers of average motor vehicles. It is a way of bringing about safer transportation. In the limited time available to the Government between now and 24 March 2007 it should attempt to get its head around the technology that can be put in place so that our roads become safer and, importantly, deliver outcomes so that the road transport industry, the livestock association, the peak bodies that represent the trucking industry, and the myriad businesses that depend on them in New South Wales become competitive. The adoption by the trucking industry of new technologies will ultimately bring about safer road transport.

Mr ROBERT OAKESHOTT (Port Macquarie) [9.09 p.m.]: I support this legislation to use new technology to achieve advancements in the road transport industry. However, I would like some issues addressed by the Government in its response, if not tonight then in the other place or at some stage soon. One of those issues is one that I made in relation to the drug-driving legislation. It is one thing for legislation to be passed through this Parliament, but most of us now start to look for the implementation strategy behind legislation. So I would be interested to hear from the Government on just how this intelligent access program is going to be implemented on the ground within the industry.

Certainly the majority of truck drivers are good operators and will embrace this type of legislation, but it is the operator on the margins, who is pushing the edges, who is pushing times, whom I would consider to be a danger to other drivers, who would more than likely be the one who might try to find a way around some aspects of the legislation. So I would like to hear from the Government just how it is going to capture all operators, not just the bigger, better operators who have a lot of interface with government and who, I am sure, would have no problem with embracing this legislation. Most probably have systems in place that can easily deliver on some of this.

One member spoke about the voluntary nature of some aspects of the bill. I would like some clarification on what is mandatory in this legislation versus what is voluntary. I have seen other legislation pass through this place that has voluntary aspects. More often than not those aspects are not picked up on the ground within the relevant industry. So, I would like to hear some response on that before I comment further. I would have some concerns if this were just a voluntary scheme and did not include sanctions. If it has sanctions, I believe that the whole of the industry will get behind it and make it successful, and the result will be better road safety in New South Wales.

Mr NEVILLE NEWELL (Tweed—Parliamentary Secretary) [9.12 p.m.], in reply: I thank the honourable members who contributed to debate on the Road Transport (General) Amendment (Intelligent Access Program) Bill. I note that the Opposition has indicated it will not oppose the bill, at least not in this place, but that it reserves its right to pursue amendments in the other House. Over the past 10 years the responsible, professional sector of the trucking industry has been working with government to improve compliance in the trucking industry.

The Government and the industry have together and separately developed quality assurance schemes to allow responsible trucking operators to move ahead with vehicle productivity and operational efficiency in return for compliance assurance. These quality assurance schemes have meant that the productivity gains for

responsible operators have not been withheld because of the activities of the cowboys in the industry. Quality assurance schemes set a high bar that the cowboys cannot jump.

New South Wales has the National Heavy Vehicle Accreditation Scheme and mass and maintenance management. Both are quality assurance schemes that the Roads and Traffic Authority manage, with independent auditing by the Quality Society of Australasia auditors. Membership provides responsible road transport operators with productivity benefits from increased vehicle weight limits, and operational efficiency via an exemption from having to present all vehicles for annual roadworthiness inspections. In return, the Government gets vehicles that are not being overloaded and are having their roadworthiness checked constantly.

The industry runs its own quality assurance schemes—for example, TruckSafe and Truckcare. TruckSafe is a quality assurance system designed by, and specific to, the trucking industry. It is based on industry-specific quality standards with modules in vehicle maintenance, health, training, and management Truckcare is a voluntary quality assurance program developed by the Australian meat and livestock industry. The program is applied to livestock transportation and is centred on maximising animal welfare, meat quality, and meat safety. Truckcare contains elements pertaining to animal welfare such as the correct preparation of livestock prior to pickup, loading facilities promoting quiet movement, the truck crates being well maintained, and drivers being trained in stock handling.

Quality assurance-based accreditation schemes also operate in the dangerous goods transportation sector. Plastics and Chemical Industries Association [PACIA] carrier accreditation audit services are available in accordance with the PACIA transportation code of practice. The scheme covers the scope of operations, vehicle types, tanks, packaged goods, classes of dangerous goods, training systems, safety programs and emergency planning, et cetera. Other dangerous services are covered by standard operating procedures and safe systems of compliance in accordance with the current Australian dangerous goods code and various State and Territory regulations.

This all means that responsible operators are prepared to put compliance systems in place and be held accountable by road authorities and their customers. Major transport companies are making use of technology to support their compliance and customer delivery systems. Companies such as Toll state on their web sites that "new technologies are the foundation of innovation in the freight and logistics industry". Until now, however, governments have not been in a position to offer technology-based compliance productivity improvement schemes to the road transport industry. The Intelligent Access Program [IAP] is a logical progression in the evolution of quality assurance and productivity incentive schemes for the road transport industry. The IAP is taking industry best practice, as exemplified by the schemes I have just mentioned, and giving it a technological edge.

The IAP is a major contribution to the national quality assurance agenda. As a compliance tool, the IAP is something that Australian governments have been developing for some time. It will give government the compliance assurance needed to provide productivity benefits to the road transport industry. It will also add to the 10-year trend in quality assurance and create real opportunity for responsible truckies to move ahead with their businesses. It is good to see such a diligent and exhaustive technical and legal evaluation of all the options—using the skills and knowledge of all the States and Territories—result in a compliance solution that will deliver for industry, government and the community generally.

How will the IAP help industry move ahead in New South Wales? It will make higher mass limits [HML] possible. That was mentioned by a number of members on the other side. New South Wales has been waiting for the required tools contemplated in the HML policy of the then National Road Transport Commission [NRTC]. In 1999 the NRTC noted in its HML policy document that all governments " have a strong desire to ensure operators and drivers carry higher mass limits only on routes considered satisfactory for HML vehicle operation" and "agree it is important to have tough controls on route compliance".

The NRTC concluded that the "transport industry is embracing technological approaches for fleet and driver management" and that these "technologies may offer a simple, low-cost method for operators to confirm their compliance with HML special route requirements. Therefore provision is made in the model legislation for a jurisdiction to include provision for the option of additional means of route compliance assurance." As the Government has shown with the Intelligent Access Program [IAP] bill, technology also can be the foundation of innovative legislation.

New South Wales has offered every encouragement to industry to get this compliance solution ready. Our ambition to use vehicle monitoring technology for compliance purposes was signalled in 2001 when New South Wales gazetted the Newell Highway as the first higher mass limits [HML] route in New South Wales. Back then New South Wales could see the virtue of what has become the IAP as a means of providing industry with a significant productivity gain via higher mass limits, and providing the Government with the compliance assurance it needed to manage access to the road network.

We have piloted a system that has delivered efficiency and industry benefits. The Mobile Crane Concessional Benefit Scheme [MCCBS] has provided assurances that the potential adverse impacts are minimised while allowing additional operational flexibility for crane operators, which has resulted in a 25 per cent increase in crane utilisation efficiency. The Intelligent Access Program builds on the Mobile Crane Concessional Benefit Scheme. These are only two examples of the benefits that IAP can bring to New South Wales.

The House, on the introduction of the bill, has already been alerted to other freight efficiencies that could be delivered by the bill. An emerging productivity benefit that can be delivered by the IAP is the adoption of quad-axle semitrailers to move fully laden 40-foot shipping containers, which are too heavy for conventional semitrailers, to and from intermodal terminals. The IAP will provide the route compliance assurance for the Government, while the quad-axle semitrailer will allow consignors and receivers to transport an international standard 40-foot shipping container fully loaded, rather than loaded to only 75 per cent of its capacity.

This reform has already been recognised and praised by the Prime Minister. By adopting the Intelligent Access Program, New South Wales will be well placed with respect to a significant item on the Council of Australian Governments [COAG] road transport reform agenda. The COAG agenda identifies that "provision of access to the full capacity of the infrastructure would require compliance conditions which provide a high degree of confidence that operations are restricted to suitable segments of infrastructure". It also observes that achieving this will require "intelligent access monitoring". That is exactly what the IAP is designed to do. It optimises economic utilisation of the road network by providing greater confidence in allowing higher-productivity heavy vehicles to use it—which is to the benefit of the New South Wales economy—while ensuring that the safety and asset management requirements of the community and government are met. The IAP is a great idea and is good for the New South Wales economy. It will allow responsible members of the road transport industry and their customers to move ahead.

I will respond to some concerns raised in the debate. One concern was whether the legislation contains privacy and personal information protection provisions. The IAP legislation complements the privacy protection provided by the New South Wales Privacy and Personal Information Protection Act 1998 so as to cover parties in addition to government, that is, service providers, Transport Certification Australia Limited, auditors and transport companies. Those parties may handle potentially personal information or be responsible for advising employees that potentially personal information is being collected. As such, the new regulations place obligations on those parties and contain significant penalties for failing to meet those obligations.

Another concern related to whether trucking companies are able to stay with their current service provider. They will be able to do so if their service provider is certified by Transport Certification Australia as an IAP service provider. Trucking companies currently use telematic services for fleet management purposes. The quality of the information is adequate for this purpose. However, it may not be to the performance evidentiary standard required by the IAP, which has been established to serve as a compliance tool in relation to road transport law. If a trucking company's service provider is not certified by Transport Certification Australia and the trucking company wishes to take advantage of a productivity benefit scheme for which the IAP is a condition of access, the trucking company will have to change to a certified IAP service provider.

With regard to the cost of using the Intelligent Access Program, the National Transport Commission estimates that the financial cost to heavy vehicle operators of using IAP services is between $500 and $1,600 per vehicle per year. The cost range reflects the fact that many trucking operations are already using GPS for fleet management purposes and, as such, the cost of accommodating the IAP would be much lower. Transport Certification Australia has estimated that a B-double on a higher mass limits permit running one way between Melbourne and Sydney with just four tonnes extra payload out of a 5.5 tonnes potential increase would break even on all extra expenses in just 16 trips. It is also anticipated that as the market expands, the associated economies of scale and market competition will reduce costs. The bill has been received well and will contribute to increased benefits to the New South Wales economy. I commend it to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PARLIAMENTARY ETHICS ADVISER

Mr DEPUTY-SPEAKER: I report the receipt of the following message from the Legislative Council:

Mr SPEAKER

The Legislative Council desires to inform the Legislative Assembly that, having considered the Legislative Assembly's message of 7 June 2006, it has this day agreed to the following resolution:

That the functions of the Parliamentary Ethics Adviser as set out in the resolution of the House of 5 December 2002 be extended to include the provision of advice to Ministers or former members, as per the following schedule:

1. The Parliamentary Ethics Adviser must on request by a Minister provide written advice to the Minister as to whether or not the Adviser is of the opinion that the Minister's:

   (i) acceptance of an offer of post-separation employment or engagement which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office); or

   (ii) decision to proceed, after the Minister leaves office, with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office),

   would give rise to a reasonable concern that:

   (iii) the Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or

   (iv) the Minister might make improper use of confidential information to which he or she has access while in office.

2. The Adviser must on request by a person who has ceased to hold ministerial office within the previous 12 months ("the former Minister") provide written advice to the former Minister as to whether or not the Adviser is of the opinion that the former Minister's:

   (i) acceptance of an offer of employment or engagement which relates to the former Minister's former portfolio responsibilities during the last two years in which the Minister held ministerial office; or

   (ii) decision to proceed with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relate to the former Minister's former portfolio responsibilities during the last two years in which the Minister held ministerial office,

   would give rise to a reasonable concern that:

   (iii) the former Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or

   (iv) the former Minister might make improper use of confidential information to which he or she had access while in office.

3. If the Adviser is of the opinion that accepting the proposed employment or engagement or proceeding with the proposal to provide services might give rise to such a reasonable concern, but the concern would not arise if the employment or engagement or the provision of services were subject to certain conditions, then he or she must so advise and specify the necessary conditions.

4. The Adviser's advice must include:

   (i) a general description of the position offered, including a description of the duties to be undertaken, or the services to be provided, based on material provided by the Minister or former Minister but excluding any information that the Minister or former Minister indicates is confidential; and

   (ii) the Adviser's opinion as to whether or not the position may be accepted, or the services may be provided, either with or without conditions.

5. Where the Adviser becomes aware that a Minister or former Minister has accepted a position, or has commenced to provide services, in respect of which the Adviser has provided advice, the Adviser must provide a copy of that advice to the Presiding Officer of the House to which the Minister belongs or to which the former Minister belonged.

Legislative Council — MEREDITH BURGMANN

27 September 2006 — President

PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT BILL

In Committee

Consideration of the Legislative Council's amendments.

Schedule of amendments referred to in message of 26 September

No. 1 Page 31, Schedule 6. Insert after line 11:

[7] Section 32 Addition of names to rolls

Omit section 32 (2) (c). Insert instead:

(c) either:

(i) be attested by an elector or a person entitled to have the person's name placed on a roll (who must sign the claim as witness in the witness's own hand writing), unless subparagraph (ii) applies, or

(ii) be supported by the evidence of the claimant's identity that is required by the regulations, if regulations for the purposes of this subparagraph are in force when the claim is made.

[8] Section 32 (6)

Insert after section 32 (5):

(6) The regulations may:

(a) require a claim to be supported by evidence of the claimant's identity for the purposes of subsection (2) (c) (ii), and

(b) impose additional requirements in relation to identification for enrolment, including requirements as to:

(i) the attestation of a claim, or

(ii) the inclusion in a claim, or the attachment to a claim, of particulars or material regarding identification.

No. 2 Page 89, Schedule 13 [15], line 9. Omit all words on that line. Insert instead:

Omit section 151B (1) and (2). Insert instead:

(1) A person must not exhibit or post or cause to be exhibited or posted any poster of any size exceeding the prescribed size on the outer wall, fence or other boundary, or within 5 metres, of:

(a) a polling place, or

(b) the grounds of an enclosure in which a building used as polling place is situated,

at any time on the day of polling for an election.
Maximum penalty: 3 penalty units.

No. 3 Page 89, Schedule 13 [17], lines 13 and 14. Omit all words on those lines.

No. 4 Page 93, Schedule 13. Insert after line 14:

[33] Section 151GA

Insert after section 151G:

151GA Registration of electoral matter involving joint tickets

(1) Assembly elections

Nothing in section 151G prevents the Electoral Commissioner from registering under that section electoral material to which section 151G (8) applies that contains directions or suggestions (express or implied) as to how to vote in accordance with the joint ticket of two or more participants in respect of one or more electoral districts, so long as:

(a) one or other of the participants has nominated a candidate for each one of the districts, and

(b) the material does not direct or suggest that a candidate nominated by none of the participants should be given the first preference vote, and

(c) the application for registration of the material was made jointly by the registered officer or official agent (as the case may be) of each participant, and

(d) the application for registration of the material otherwise complies with the relevant requirements of section 151G (apart from subsection (8) (c)).

(2) Council elections

Nothing in section 151G prevents the Electoral Commissioner from registering under that section electoral material to which section 151G (8) applies that contains directions or suggestions (express or implied) as to how to vote in accordance with the joint ticket of two or more participants in respect of a periodic Council election, so long as:

(a) each of the participants has nominated at least one candidate for the election, and

(b) the material does not direct or suggest that a candidate or candidates nominated by none of the participants should be given the first or highest preference or preferences, and

(c) the application for registration of the material was made jointly by the registered officer or official agent (as the case may be) of each participant, and

(d) the application for registration of the material otherwise complies with the relevant requirements of section 151G (apart from subsection (8) (d)).

(3) Concurrent elections

Nothing in section 151G or this section prevents the registration of one set of electoral material that contains material of the kind referred to in both subsections (1) and (2) involving the same participants and relating to elections being held concurrently.

(4) Definition of "participant"

In this section:
participant means a political party registered under Part 4A or a group of candidates registered under the *Election Funding Act 1981*.

No. 5 Page 96, Schedule 13 [33], proposed section 151J, line 18. Insert ", with the concurrence of the Electoral Commissioner," after "returning officer".

Mr NEVILLE NEWELL (Tweed—Parliamentary Secretary) [9.27 p.m.]: I move:

That the Legislative Council's amendments be agreed to.

Mr BARRY O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [9.27 p.m.]: The Opposition welcomes the amendments. Amendment No. 1 is a Government amendment that seeks to bring the Parliamentary Electorates and Elections Act into line with Commonwealth legislation. Amendments Nos 2 and 3 relate to the size of posters. The Liberals and The Nationals are delighted that we have managed to prevent the Government from removing the limit on the size of posters. Amendment No. 4 brings the Act into line with the Commonwealth Act. It means that parties who register joint upper House tickets and contest lower House seats are able to distribute how-to-vote cards across the entirety of those lower House seats. Amendment No. 5 is a sensible change to ensure that the Electoral Commissioner is central to the changes. The only issue I want to briefly address relates to amendment No. 4. Last night in the upper House Ms Lee Rhiannon said:

> Clearly there has been uncertainty about the matter, and when it is possible to clarify matters in the bill, it is important to do so. The Greens think it is fair enough when parties are in alliance, such as the Liberals and The Nationals, to have such a provision.

Notwithstanding her support last night, Ms Lee Rhiannon today issued a release in which she suggested that in some way this was a rort by the Liberal and National parties. I make the point, which was made in debates in this place and the other place, that this issue arose as a result of what can only be described as dodgy advice from the State Electoral Office at the 11th hour of the last election campaign. A previous ruling had been overturned simply to accommodate Labor and Country Labor upper House tickets. I am delighted that the matter has been resolved in this way.

The amendment we had Parliamentary Counsel draft is not specific to any party. One day perhaps the Greens will find someone who will co-operate with them and they may be the beneficiaries of it. In the meantime, the amendment provides that where the State Electoral Office agrees to register an upper House joint

ticket, regardless of who is on the joint ticket, in the lower House the electoral material can be distributed across the State. We are happy to support the amendments.

Mr NEVILLE NEWELL (Tweed—Parliamentary Secretary) [9.30 p.m.]: The Government notes the amendments made in the other place to the Parliamentary Electorates and Elections Amendment Bill. The Government is concerned about one amendment in particular, that being the amendment to subsections (1) and (2) of proposed section 151B. The Government's concerns were explained in detail in the other place. While the Government will monitor the practical effect of this amendment, it does not propose to delay the progress of this important bill. Accordingly, the Government is prepared to accept the amendments made in the other place.

I note that members in the other place have requested certain assurances about the way in which the Electoral Commissioner will use the flexibility he has in relation to the definition of a polling place. I seek leave to table a letter from the Electoral Commissioner to the Hon. John Della Bosca in which he informs the Minister of the manner in which he proposes to apply these provisions.

Leave granted.

Document tabled.

The Electoral Commissioner states that only in exceptional circumstances will the polling place be defined to include the grounds surrounding the building. The Electoral Commissioner also states that where he approves a polling place to be defined to include the grounds, the returning officer will immediately inform registered political parties and candidates. I expect that the assurances given by the Electoral Commissioner will be satisfactory to members in the other place. I commend the amendments to the Committee.

Mr ANDREW FRASER (Coffs Harbour) [9.32 p.m.]: On behalf of The Nationals I support the amendments and the earlier comments by my colleague the Deputy Leader of the Opposition. The amendment relating to restricting the size of posters is sensible. I have been handing out how-to-vote cards for 30 years. As the Deputy Leader of the Opposition said earlier, a late change at the last election meant that joint how-to-vote cards could not be issued. That created real chaos in country areas because a number of people from the city take their holidays on the North Coast at around election time and it created real confusion at the polling booths.

It would be terrific for workers at polling booths to have joint vote how-to-vote cards that can be issued statewide. I suggest that it would be a great help to members of The Nationals coming into town who have to work at Town Hall. I ask the Parliamentary Secretary, the honourable member for Tweed, to advise me whether he can give me any assurance that the amendments agreed to in the upper House, to which the Government agreed in this House, will be proclaimed in time for the 24 March election next year. I support the amendments. Will the amendments be proclaimed or not?

Mr Neville Newell: I will leave that to the Minister.

Motion agreed to.

Legislative Council's amendments agreed to.

Resolution reported from Committee and report adopted.

Message sent to the Legislative Council advising it of the resolution.

THREATENED SPECIES CONSERVATION AMENDMENT (BIODIVERSITY BANKING) BILL

Second Reading

Debate resumed from 8 June 2006.

Mr MICHAEL RICHARDSON (The Hills) [9.34 p.m.]: This bill was introduced to the House way back in June. At the time the Opposition—like the *Sydney Morning Herald,* Alan Jones, the property industry, farmers, and the environmental movement—had serious reservations about it. Whilst the Government now proposes to amend the bill—there are 61 different amendments in a 16-page document that was given to us yesterday—we still have some reservations about the bill as it is currently framed. We have consistently said

that it really should have been provided to all members as an exposure draft bill, which could have been laid on the table over winter, commented on, and then introduced in the House in a relatively complete form.

There are 61 amendments from the Government, and goodness knows how many more are likely to come from the Greens. I foreshadow a couple of potential amendments from the Opposition. It will be a fairly unwieldy piece of legislation—as unwieldy, I might say, as the rest of the Government's threatened species legislation. The legislation was introduced because the existing threatened species legislation is not working. It has been holding up development across the State for no good purpose.

When the honourable member for Bankstown introduced amendments to the legislation in 2002 we heard that only 212 development applications of some 700,000 that were made required the Director General of National Parks and Wildlife to issue director general's requirements for species impact statements. Of those, only 45 required formal concurrence by National Parks, and all but five of them were granted. Of those five, three were subsequently approved without amendment. So all this bureaucracy and red tape resulted in only two rejections of development applications.

At the same time the number of threatened species, populations and ecological communities that are listed under the Act has increased to more than 1,000—100 more than when we last debated threatened species legislation in 2004. There are so many that the Government has now legislated to create a priorities action statement. In essence, it is picking winners and losers. It is saying, "These are the species that we can afford to protect or conserve, or bring back from the brink of extinction, and others will miss out." The Government's threatened species legislation means that both the environment and the property development industry will lose out.

The only winners in all this are the lawyers and consultants employed to draw up species impact statements, and the bureaucrats, who must love the Government's make-work scheme. The Government is now proposing yet another approach—that is, biobanking—to try to unravel the mess it created. I concede that this is truly pioneering work. There are schemes that share some of the same principles that are in use in the United States of America and in Victoria, but nowhere in the world is there an identical scheme to the one being proposed by the Government. Labor has had 12 long years to get this right and it has failed. It has presided over a deterioration in the environment as well as a deterioration in economic growth. We have had only 0.2 per cent growth in this State over the last quarter, and we will run a deficit of probably more than $1 billion this year, despite 10 long years of economic sunshine under the administration of the Howard-Costello Government.

To return to the bill, the scheme has four main components: first, establishing a biobank site on land via an agreement voluntarily entered into between the Minister for the Environment and the landowner; second, creating biodiversity credits where the landowner agrees to undertake positive environmental management and rehabilitation action to improve biodiversity values on the biobank site; third, allowing the credits to be registered and traded to offset a biodiversity impact on another development site; and, fourth, establishing an assessment methodology to ensure the scheme results in the maintenance of, or an improvement in, biodiversity values.

Honourable members might be wondering how such a scheme would work. Let me explain it this way. Landowner A owns 20 hectares of land at Castlereagh in the Sydney Basin, 16 hectares of which has been cleared. He applies to register the land as a biobank site on the basis that 10 hectares of land will be maintained and regenerated as Cumberland Plain Woodland, while 10 hectares will continue to be used as a house block and paddocks. The agreement generates 120 biobanking credits.

Landowner B wants to develop his land at Rouse Hill, but requires approval to clear one hectare of Cumberland Plain Woodland. Under existing legislation he must obtain approval to chop down the trees. Under the biobanking legislation he buys the 120 credits from landowner A, which allows him to clear Cumberland Plain Woodland without having to prepare a species impact statement. Part of the money he pays goes into a trust fund, which in turn pays landholder A an agreed sum each year for a fixed period to help pay for the maintenance of the four hectares of Cumberland Plain Woodland and the regeneration of six hectares of Cumberland Plain Woodland, that is, six hectares of cleared land.

Under the scheme developers can obtain a biobanking statement from the Director General of the Department of Environment and Conservation that confirms the number and class of credits applicable to a development. A biobank statement cannot be obtained for clearing native vegetation. That is, the new legislation

does not override the Native Vegetation Act. A biobanking statement can be modified at any time before the development consent is issued. The Minister for Planning may declare the scheme compulsory for any development for which biobanking is available. One of the Government's amendments negates that provision. The credits can be cancelled at the request of the landowner if the management actions have not been carried out or if false information was used to obtain them. The biobanking agreement credits are attached to and transferable with the land.

In theory, these proposals sound good. The developer gets to develop a parcel of land that has a small remnant patch of Cumberland Plain Woodland on it on the basis that a larger, more viable tract of Cumberland Plain Woodland is conserved elsewhere. But that is not exactly how the legislation will work. One cannot offset three small, degraded parcels of a particular ecological community for one big one. One can offset them only against the management actions carried out on the big parcel of land, that is, controlling grazing, leaving fallen timber on the ground as habitat, controlling weeds and feral animals, and the expensive option of regenerating the land. That means that only degraded parcels of land that would benefit from those management actions will be able to be registered as biobanking sites. The person who has done the right thing and maintained his or her land in pristine condition, or who has already entered into a voluntary conservation agreement with the National Parks and Wildlife Service will not get any benefit from this legislation.

Overall, the legislation requires a net gain in conservation from the application of a biobanking agreement. If someone wants to cut down a small parcel of Cumberland Plain Woodland, he or she must maintain or regenerate Cumberland Plain Woodland or a rarer ecological community, such as blue gum high forest or turpentine-ironbark forest. Again, that sounds fine in theory. However, in practice someone must determine how many credits will be needed to chop down the trees on that block of land—that is, the biobanking statement—and how many credits will be written against the bigger, more viable parcel of Cumberland Plain Woodland. The methodology for doing that is not in this legislation. Proposed section 127B simply lays down some general guidelines for the methodology. That will be determined at a later stage with the number of credits attributable to a particular management action decided by the Minister. I concede that the Government has drafted an amendment to this section, but it does not clarify the methodology for determining those credits.

This is another instance of the Government asking that it be taken on trust. The people of New South Wales have been doing that for almost 12 years. What do we have to show for it? In 1995 Bob Carr and Andrew Refshauge, the then Minister for Health, said that they would halve hospital waiting lists. I remember that clearly, and I will write it in blood if honourable members want me to. The number of people on the waiting list then was 44,700 and it is now more than 54,000. The train system is a shambles and people have been abandoning it in droves. The economy is being driven into the ground and the Government will run a deficit this year. The Government's transport plan for 2010 has proven to be a complete farce. The Hills was promised a railway line by 2010, but we will now get it in 2017, after a tunnel has been built under the harbour and a line is built to Leppington. It is on the never-never. Sydney's air pollution is now ten times worse than Melbourne's.

As far as threatened species legislation is concerned, we have an impossibly bureaucratic system that does not appear to have saved a single species from extinction. The biggest drawback to this legislation is the fact that when biodiversity credits are written against a particular site, there will be no requirement for that land to be managed to a high standard in perpetuity. Indeed, I understand that 25 years will be the absolute maximum period and it is more likely to be 15 to 20 years. The Nature Conservation Council says, quite correctly, that a biobanking site will not have the same conservation status as a reserve or national park. I wonder exactly how this bill will interact with the major amendments to the Threatened Species Conservation Act that were made by the Government in 2004 and were supposed to spell the end of dealing with threatened species on a case-by-case basis. In his second reading speech on the bill at that time the Minister said:

> In too many cases debate has been reduced to a black and white decision: it is either the shopping centre or the orchid; the Grevillia or the school hall; threatened species X or development proposal Y. The bill will improve this situation by allowing the Minister for the Environment … to certify an environmental planning instrument that promotes conservation of threatened species and biodiversity more generally. In other words, threatened species conservation will be considered, and even more importantly satisfactorily resolved, at the beginning of the planning process when the local environmental plan, regional environmental plan or other planning instrument is being prepared.

Despite a debate that raged in both Houses for weeks, and an incredibly complex piece of legislation being passed by this Parliament, threatened species are still being dealt with on a case-by-case, black-and-white basis to the detriment of both the environment and the economy of our State. I cannot understand how the Minister

can introduce this legislation in advance of the completion of all of those new environmental planning instruments envisaged by the previous legislation and, indeed, of biodiversity certification.

How can biobanking land swaps be organised when we do not know which habitat is the most important, or how well a particular plant is represented in the region as opposed to being on a single development site? How can one determine the number of biodiversity credits that might be applicable to a particular piece of land in advance of those environmental planning instruments being created and certified? How does one decide the relative value of two parcels of land containing different ecological communities? The *Sydney Morning Herald* certainly does not think it can be done. An editorial of 10 August headed "Biobank sounds a lot like bunk" states:

> The in-principle flaw in biobanking is that it equates a loss of biodiversity in one area with a commitment to retain it in another. Yet every area is unique. In the Sydney basin, the uniqueness may be an area's very location; a few hectares of gully somewhere in the suburbs—and the flora and fauna it supports may be an irreplaceable oasis. Even a thousand similar hectares somewhere else could never make up for its loss, no matter how many biodiversity credits the department thinks it is worth.
>
> There would also be many practical difficulties with biobanking. What will be the objective basis for this proposed ledger of biodiversity gains and losses, of credits and debits? Will the department have to decide that the conservation of a certain area of wattle in one location generates enough credits to offset the loss of a frog habitat in another? Or will there be separate credits for frog habitats and wattles and everything else, making the scheme complicated to the point of being unworkable? And there seems to be no way of guaranteeing that investors will continue to maintain these areas of "high conservation significance" after they've sold the credits. Nor do members of the public have a clear avenue of appeal if they think the department's decisions are wrong …
>
> Offsets may prove even more contentious and costly than confronting environmental problems directly. It certainly does not look like a system the community can bank on.

The Urban Development Institute of Australia was also less than overwhelmed by the original proposals. It pointed out in a position paper on the issue dated 8 August:

> Biodiversity banking places a disproportionate emphasis on homebuyers to fund biodiversity protection for marginal benefit...
>
> Biodiversity banking under the proposed arrangements can neither provide certainty nor finality … The biodiversity banking regime as proposed effectively exists outside the NSW planning system. Even if a developer were to purchase credits for a significant portion of the developable area, there is nothing to prevent a Local Council from requiring further land to be reserved for biodiversity protection as part of its s94 contributions plan. Again, when the development application is assessed there is nothing to preclude a council under pressure from residents, requiring yet further land to be ceded as a condition of development for biodiversity protection or indeed refusing the application on the basis of a loss of local amenity.

Biodiversity banking as proposed will create a cascade of conditions with no certainty and no finality, jeopardising development feasibilities and further eroding housing affordability. The Urban Development Institute of Australia New South Wales [UDIA] maintains that biodiversity banking must be complemented by biodiversity certification—that is something we certainly think should happen—and exist within the New South Wales planning system. It needs incentives to offset the cost.

I concede once again that the 61 amendments the Government has circulated have dealt with this issue of the local council requiring further land to be reserved for biodiversity protection as part of its section 94 contributions plan, but the amendments still do not get around the issue that the biodiversity certification and the creation of environmental planning instruments are way, way behind schedule. The Government is putting the cart before the horse in introducing this legislation in advance of those environmental planning instruments being in place.

The Nature Conservation Council [NCC] has been even more trenchant in its criticism. In a letter to me dated 30 August, NCC director Cate Faehrmann listed what she describes as the key problems of the bill. They are as follows:

1. The scheme is predicated on the clearing of threatened species habitats and the destruction of biodiversity values to function. It is a negative, perverse approach to threatened species conservation.

2. The scheme will not prevent development of high conservation value areas. Developments that do not pass the BioBanking test just revert back to the flawed existing system to get approval. Developers can avoid BioBanking (and the existing system) if they are subject to a conservation levy.

3. The most damaging developments are being assessed under Part 3A and are exempt from BioBanking.

4. The Bill promotes the clearing of highly threatened urban areas in return for measures undertaken in much less threatened rural areas (where clearing is constrained by the *Native Vegetation Act 2003*).

5. There is no guaranteed permanent protection for offset sites, which can later be 'offset' themselves or approved for development by a public authority.

6. Instant loss of biodiversity will be traded for slow gain. Biodiversity credits can be generated and sold before the management actions have been completed or the biodiversity outcomes delivered.

7. There is no compulsory restriction or prohibition on activities that can take place on or near offsets, and they may well be subject to other damaging uses or become isolated by future development.

8. There is no avenue for public participation prior to the issuing of BioBanking statements.

9. The Bill does not restrict offsets to like for like. The scheme could push conservation efforts towards cheap land with different ecological values to development areas. Every area of biodiversity is unique.

10. The Bill does not designate the habitat areas that are irreplaceable, for example, endangered ecological communities and vegetation types with less than 30% remaining.

11. The most crucial details, including the biodiversity assessment methodology, are not included in the Bill. The biodiversity assessment methodology has not been finalised, peer reviewed by independent scientist or trialled.

12. Parties with a record of environmental damage will be allowed to participate and there is no strong commitment to funding monitoring, auditing or enforcement.

Once again I acknowledge that the Government has addressed a number of these issues in the amendments, but it should unquestionably have simply placed an exposure draft bill on the table back in June, let it lie there over the winter, and then incorporated the amendments that emerged from consultation with the stakeholders when the bill was presented to the House. The Property Council of Australia said that it supports the principles and objectives of the current biobanking scheme, but that it needed amendment. The Property Council also listed a significant number of concerns as follows:

> First, finalise the detail. Among industry there is a widespread lack of understanding as to how the scheme will work … the Working Groups established by DEC, which the Property Council participates in, are grappling with issues among its members with no clear answers or understanding as to how or when they will be resolved. Meetings routinely end with more questions than answers.

And the Government says, "Trust us on this, trust us to get the methodology right." The Property Council said:

> Some of the Groups have only met a few times and the overall Review Working Group has still not met.
>
> Once a site is established and managed, it will need to be maintained. How long is maintenance required? How is in-perpetuity defined?

We know it is not defined as being in perpetuity at all; it is 15 to 20 years maximum. The Property Council continued:

> How will DEC be establishing the BioBanking Fund into which payments are made on the sale of credits and funds are distributed to manage BioBank sites?
>
> Second, finalise the biometric tool. Fundamental to the operation of this scheme will be the biometric tool which will assess sites and determine the amount and type of credits earned and also credits required for offsetting.
>
> Despite the Bill being presented to Parliament, the tool has not been finalised nor has it been used for testing or put on exhibition for public comment.

Honourable members will realise the significance of that comment from the Property Council. The council went on to say:

> Third, couple the scheme with certification.

The House has already heard arguments along those lines—

> Fourth, incorporate a dispute resolution mechanism. The Bill proposes that the final arbiter of disputes will be, surprisingly, the Premier of NSW.

That matter has been dealt with in the amendments that we will debate in Committee. The council went on:

> In any event a more workable mechanism to resolve disputes needs to be incorporated into the Bill.
>
> Fifth, understand the market. As noted, there is a lack of clarity regarding the number and class of credits to be included in the scheme for the creation of sites and for offsetting. Linked to this is how the market is to operate.

That is why we believe wholeheartedly that a trial is needed. We have consistently said that a trial is needed and we believe that the Parliament should assist in the creation of that trial. The Property Council continued:

> Sixth, subject the scheme to rigorous testing and trialling.

The council agrees with us. On the basis of the amendments that have been presented to us we are not quite sure how rigorous the testing and trialling will be. The Property Council went on to say:

> Despite earlier commitments to test and trial the scheme in the Lower Hunter and the Far North Coast, where biodiversity issues are most pressing, these have been abandoned. This is regrettable. A major reform like this should be subject to rigorous testing and trialling where the tool can be applied and can be critically assessed. This has been the case with BASIX throughout its development. A trial would also help to establish benchmarks for threatened species which identify their value and provide a guide to future assessments and the value of credits earned and to be used.
>
> Seven, remove the mandatory requirement capability in the Bill.

That has been done with the amendments. The Property Council continued:

> Eight, insurance. The proposals are not clear regarding whether or not insurance can be taken out against maintenance costs for unforeseen hazards and random weather in events such as bushfires, floods, cyclones and the like.
>
> Nine, costs. A detailed financial and cost analysis of the scheme needs to be undertaken by the Department to identify costs likely to be incurred by the land owner, developer and Scheme Manager.
>
> Ten, compatibility. It is essential that this legislation be compatible with federal legislation to ensure they are not incongruent with each other.

At that time the Property Council concluded:

> These plans for BioBanking are not sufficiently worked through to warrant passage through Parliament at this time.

That is exactly the conclusion reached by the other stakeholders I mentioned. The devil in this legislation is well and truly in the detail. Unfortunately, while I have looked at the 16 pages of amendments that the Government has provided, there is still a lot of detail that is left out.

On 9 August Alan Jones was also highly critical of the legislation, asking why a developer would buy 7,000 hectares of protected land unless he knew legislation would enable him to make money on the land. He said that he smelt a rat, and there are many people who are making the same observation. Biodiversity should be integral to the biobanking process. It should not be possible to write biobanking credits on any piece of land in the absence of a certified environmental protection instrument that covers the area or region in which that land is located. Yet, according to the UDIA, only 12 of 152 councils across New South Wales have prepared local environmental plans for biodiversity certification. The institute claims that biodiversity certification is no longer a priority for the Department of Environment and Conservation. Yet the Government now proposes to implement a trial of this legislation across the entire State, when only 12 out of 152 councils have prepared appropriate environmental planning instruments and are planning to get the biodiversity certified.

Given the failure of the Government to assist councils in developing appropriate environmental planning instruments, it seems clear that this legislation is being introduced years early. The Department of Environment and Conservation cannot cope with what is on its plate now, and that is clearly shown by the fact that the number of threatened species continues to rise exponentially, by more than 10 per cent a year. It would be nice if the Government could deliver that sort of economic growth for this State. One wonders how the Department of Environment and Conservation will be able to cope with the impact of biobanking as well. As I said before, the scheme is unique; nothing exactly like it has been implemented anywhere in the world. So why is it being introduced now? It is probably because there have been some significant complaints from big donors to the Labor Party about the problems that the threatened species legislation is causing for them. As Alan Jones suggested, there may be some dollars attached to the passage of this legislation through this place.

I spoke before about the need for a trial of this complex legislation before it is enacted across the State. In a letter to me dated 21 September the Minister claimed that the Government's intention to trial the biodiversity banking scheme for two years will be made explicit in the bill. However, the amendments that arrived on my desk yesterday only state that the Minister is to cause a review of the operation to be carried out within three years of the gazettal of the biodiversity assessment methodology. I understand that the Government intends to implement the legislation across the State and not in selected areas, and to allow the exchange of credits between regions. This will create its own set of problems, not the least of which will be if the trial proves

to be a failure. I have already discussed this matter with one of the Minister's advisers, who said that if the legislation does not work the Government will scrap it. If the scheme is not implemented in a number of selected areas where environmental planning instruments are in place but is implemented across the entire State and proves to be a failure, frankly, I do not see how the legislation can be scrapped.

Notwithstanding this, yesterday the Property Council of Australia indicated to me that it now supports the bill, largely because the Government has amended it to remove the ability of the Minister for Planning to make the scheme compulsory. Participation in the scheme will be voluntary. Indeed, proposed new section 27ZF spells that out. I repeat: I still cannot see how a trial can operate in the absence of biodiversity certification or at least proper certified environmental planning instruments. The Urban Development Institute of Australia is of the same view. It has also expressed concern that the legislation does not provide a time frame between putting in an application for a biodiversity banking site and having the number of credits applicable to that site signed off. In principle, the Opposition supports the concept of biodiversity banking, and I have been quite open and upfront about that.

Mr Grant McBride: A Paulian conversion.

Mr MICHAEL RICHARDSON: What we do not support is the way the bill has been introduced. For the benefit of the Minister for Gaming and Racing, we support the concept of biodiversity banking. However, that does not mean we support this bill. All the stakeholders support the concept of biodiversity banking.

Mr Grant McBride: Wonderful! Twenty minutes of telling us it is no good and now you tell us you support the principle!

Mr MICHAEL RICHARDSON: We support the principle, but only half the provisions have been introduced. We received the other half as a second instalment—shoehorn the two together and see how it works! That is reprehensible. We believe that a trial needs to be exactly that: a trial in a limited number of locations where local environmental plans, regional environmental plans or other environmental planning instruments that promote the conservation of threatened species and biodiversity have been approved. A way forward would be for a select committee of the Parliament to sign off on the methodology for the trial and for another committee of the Parliament to oversight the trial and to report back to the Parliament on its success or otherwise.

The legislation could then be amended in line with the committee's recommendations. Then, and only then, the trial could be extended to the whole State. It is worth noting that the Government's legislation is still opposed by farmers and the Environmental Liaison Office. I indicate that we will not oppose the bill in this House but we will reserve our position in the other place. We want to hear what the Government has to say about my suggestions regarding parliamentary oversight of the trial in particular. We may seek to move other amendments in the other place.

Mr KIM YEADON (Granville) [10.03 p.m.]: I support the Threatened Species Conservation Amendment (Biodiversity Banking) Bill, which continues to develop the Government's approach of using payments for ecosystem services or market-based mechanisms to more effectively manage environmental outcomes and sustainability. I inform the House that I have a personal interest in two international not-for-profit organisations dedicated to the development of payments for ecosystem services around the world: the Katoomba Group and Forest Trends. In fact, the Katoomba Group is named after our town of Katoomba in the Blue Mountains as the group held its formation meeting in Katoomba in 1999. The choice of location was recognition by the Katoomba Group of the world-leading approach the New South Wales Government was taking to the development and use of innovative market-based mechanisms for achieving environmental sustainability.

It is worth having a brief look at that history, particularly for the benefit of the honourable member for The Hills, who seems to think that nothing is happening, in order to provide context for the legislation currently before the House and to demonstrate the Government's proven track record in the effective use of this type of policy. From its earliest days the Government explored innovative approaches for improved environmental management. These included things like triple bottom line reporting, adopted by agencies such as State Forests, which reports on its financial, social and environmental bottom line; and the development of carbon forests, which provided the framework for how to conduct, monitor and administer carbon trading, which resulted in outcomes like the agreement with the Tokyo Electric Power Company of Japan, which established extensive carbon forests in northern New South Wales. Unfortunately this initiative became severely limited as a result of the Federal Government's failure to sign the Kyoto Protocol.

Another market-based mechanism project was the reverse auction trading scheme trialled on the Liverpool Plains, where farmers bid for funding from the Government in return for the provision of predetermined environmental services. Of course, one of my favourites is the electricity retailer greenhouse gas abatement scheme, which was one of the first true carbon trading schemes in the world when it was introduced at the beginning of 2003. It still remains the only example in Australia of a market-based scheme to deal with greenhouse gas emissions from electricity generation. The Government was also proactive from the outset in adopting market-based mechanisms for pollution management, with schemes like the Hunter River Salinity Trading Scheme and the Bubble Licensing Scheme on South Creek in Western Sydney, which has now progressed to include diffuse source pollution trading.

The New South Wales Government has also been at the forefront of national initiatives using trading mechanisms for environmental sustainability through the National Market Based Instruments Pilot Program. In New South Wales this involved three projects to manage salt loads into stressed rivers in the Murray-Darling Basin, the Ulan coalmine at Mudgee, the Norske Skog papermill near Albury and the Moree spa baths. In 2001 the Government released the environmental statement "Action for the Environment", which highlighted the need to use new tools to address the cumulative impacts of new development. Following on from this, the Government later released the concept paper entitled "Green Offsets for Sustainable Development", which proposed three pilot programs using environmental offsets. The paper acknowledged that these pilots would provide the building blocks for the establishment of market mechanisms for sustainability where the environment was under significant stress from new and especially urban development.

It is therefore clear that this legislation is a continuation of, and is informed by, the numerous market-based concepts and schemes that the Government has formulated, trialled and implemented over the past decade. It is this long experience in innovative market-based mechanisms that has provided the skill base and knowledge necessary for the introduction of a scheme like biodiversity banking. While the New South Wales Government has been a leader in the use of market-based mechanisms, it has not been entirely alone in exploring these types of policy approaches. The Californian wetlands banking scheme in America, which has been in operation for some time, has a similar conceptual approach to this legislation. Obviously, much can be learned from the experience of others in the implementation and operation of similar projects.

My own observation of the Californian wetlands banking scheme provides a warning for the need to maintain the integrity of offsets generated for environmental credits under these types of schemes. In some instances in California the creation and banking of wetland offsets were not always adequately monitored and enforced. Likewise, the replacement of destroyed wetlands with newly created wetland ecologies did not always see an exchange of like for like. Just digging a hole in the ground and filling it with water does not constitute an ecological wetland—I think it is called a dam. Under the New South Wales biodiversity banking scheme, vegetation type and cover will be used as a proxy to measure the offset credits generated. The honourable member for The Hills might want to listen to this, as it will give him an insight into some of the methodology that he fails to recognise.

This proxy is a simple yet relatively effective measure for reflecting and assessing a complex biosystem. Vegetation type as a proxy was used extensively in the Government's forestry assessment process that occurred under the New South Wales Forestry Agreement, and much experience was gained by conservation agencies in the use of this proxy. However, that being said, I think it will be important to periodically conduct surveys to test the proxy against actual outcomes for biodiversity conservation on offset sites over time to ensure the ongoing integrity of those credits.

The legislation requires property owners to establish a biobank site by entering into an agreement with the Minister for the Environment. By agreeing to control things like grazing, weeds and foxes for the protection of habitat the landowner will be able to sell biodiversity credits. The money from selling the credits will pay for the long-term management of the site and provide an investment return for managing the land. Money will be paid to landholders from a biobanking trust fund. This will ensure that landholders have the necessary money to continue to undertake the required management action each year. One of the strengths of the legislation is the endurance of the conservation gains over time. Unlike a range of other environmental programs that provide funding for rehabilitation or conservation on private land, this scheme does not run for a limited or defined period of time.

The biobanking agreement is a statutory covenant on the land and applies in perpetuity, no matter who owns the land in the future. It is important to recognise that the legislation does not in any way privatise the environment. Market-based mechanisms are not about selling off the environment to private interests such as

developers. The legislation recognises the real-world pressures for continued involvement, particularly urban development, especially in areas like the Sydney Basin.

The bill establishes a voluntary scheme. The fact that it is a voluntary scheme is very important and should allay many of the fears expressed by the honourable member for The Hills. As I said, the bill establishes a voluntary scheme that uses innovative market-based incentive mechanisms in an attempt to achieve sustainable, and indeed improved, environmental outcomes at the least cost to the wider community. That is really what market-based mechanisms for sustainability are about: going out to those in the community who best know their business and the area, providing the financial incentive, and getting them to deal with those problems. t is much better than a command control approach from the centre by people who may not have the required or adequate information to get the best outcome at the least cost. I commend the Minister for the Environment for introducing this innovative and world-leading legislation and I congratulate all the public servants who have made a contribution to the development of this outstanding policy. I commend the bill to the House.

Mr ANDREW FRASER (Coffs Harbour) [10.12 p.m.]: I have said in this House on many occasions, and I repeat, that if there is a problem in Sydney, it should be solved in the bush or outside the Sydney metropolitan area. The honourable member for Granville said this legislation is about allowing development in Sydney. I suggest that it is about overdevelopment in Sydney. It is, as the honourable member for The Hills said, an opportunity for donors to the Labor Party to buy land cheaply—and I mean cheaply, by comparison with land in regional New South Wales—as a biobank for land they will clear of natural environment and habitat in Western Sydney to allow mushroom-like growth.

When you travel through the western suburbs of Sydney you realise very quickly that there are bottlenecks in the transport and road systems. People who live there would have to work in the area because it would be almost impossible for them to get into the city. There is now legislation that allows further overdevelopment in Western Sydney, and I understand from the honourable member for The Hills that the Government will move 61 amendments to the bill in this or the other Chamber. Despite the accolades the honourable member for Granville bestowed on the Minister for the Environment, the fact that 61 amendments to the bill are proposed demonstrates that the Government has admitted the Minister's failure with what the honourable member for Granville has described as world-leading legislation.

I find that absolutely amazing. Once again we have legislation that will allow developers to clear land and build houses, shopping centres, et cetera, and overdevelop Western Sydney. At the same time as the Government is introducing this legislation, it is sending car loads of police to harass farmers to the north of Dubbo to see whether they have cleared woody weed regrowth. They will prosecute those farmers to the tune of hundreds of thousands of dollars and demand, without consultation, that areas of that land be set aside for future conservation value. Eventually, farmers will not be able to use the land that has been cleared, but will have to replant it.

On one hand the Government is going to allow developers in Sydney to destroy habitat, clear land in Western Sydney and build homes on it. On the other hand it continues to persecute farmers in regional and rural New South Wales who are attempting to make an honest living by proper management practices. I suggest there is plenty of land on the North Coast that is covered with native vegetation and could be purchased fairly cheaply. There is also the opportunity to harvest timber on some of that property. Less than a month ago the Government introduced a draft code of practice for private native forestry that will result in that land being locked up. As I have said in this House, in media releases, and at public forums, land containing valuable timber will end up being locked up.

The honourable member for Granville spoke about carbon banking, but the land will be locked up and the farmers will be unable to harvest timber on it in a sustainable manner—timber that is required to build homes in Western Sydney. It has been estimated that this will reduce the value of land in regional New South Wales by more than $2 million. This will allow developers to purchase that land at rock-bottom prices, erect a fence around it, let feral animals breed, let lantana, noxious weed and rubbish grow on it, while at the same time clearing vegetation in Western Sydney to construct houses. I have never seen such a double standard in all my life. The Government does not think outside Newcastle, Sydney and Wollongong.

Having introduced the legislation, and despite telling us it is groundbreaking, world-leading legislation, the Government foreshadows 61 amendments to it. Madam Acting-Speaker, I well remember the Somersby mint bush in your electorate of Peats. We looked at that rare and endangered species growing on what I would

call a sensible development. Native vegetation was found in an industrial subdivision in your electorate and the National Parks and Wildlife Service sought to prevent the development. On that trip we suggested that the National Parks and Wildlife Service should look on its own side of the fence. When it did, it found this rare and endangered Somersby mint bush in great supply. In fact, it was all over the place. I would suggest it was almost a weed. The National Parks and Wildlife Service proposed to lock up what I regarded as a sensible development. Now, I suggest, we have the opposite situation in Western Sydney. For political purposes, for the growth of Western Sydney, the Government wants to clear this land.

This Government has been in office for 12 years yet it blames the Federal Government for insufficient transport infrastructure—a lack of decent bus and train services. It always seeks more money from the Federal Government for roads, but where is the water infrastructure for Western Sydney? We are in the grip of one of the worst droughts this country has ever seen. Nevertheless, when Warragamba Dam was built to provide a water supply for Sydney, I suggest it was not intended to provide water to this burgeoning population in Western Sydney. Without spending any money on infrastructure to improve the water supply to the whole of Sydney, including Western Sydney, which is at the moment desperate for water and on permanent water restrictions, the Government now wants to tell developers that they can destroy natural native habitat and vegetation with a view to further overdeveloping Western Sydney.

I know of a development in regional New South Wales, north of Coffs Harbour, where a family has something like 30 hectares. It was cleared land when they bought it and they have sat on it for many years. They have now put a development application to the Government for what I would regard as a fairly sensible subdivision of the area. At this stage the Government has denied that application because it wants that area left forested. This is regrowth of about 30 or 40 years of age. The Government is suggesting that biobanking may alleviate that problem. It will not alleviate the problem. The development has been knocked back and the land is now worthless. In many other developments on the North Coast native vegetation and habitat laws mean that developers cannot do anything, or what they can do is severely limited. This legislation is proclaimed as world breaking, a world first, yet it is presented to the House with 61 foreshadowed amendments that I am yet to see.

Mr Michael Richardson: That is a world record!

Mr ANDREW FRASER: Yes, that is a world record. I remember that when I was a backbencher I proposed 52 amendments to the environment protection legislation introduced by Tim Moore and he thought that was somewhat extreme. I think I succeeded with 12 in the end, but to propose 61 amendments to one's own legislation certainly is world breaking. It is world-breaking hypocrisy by a Government that looks at New South Wales as Newcastle, Sydney and Wollongong, and looks to do political favours for its mates down in this part of the State. I look forward to participating further in Committee when the 61 amendments are proposed. I would like to know who wrote the speech for the honourable member for Granville. He read that speech. I think it was prepared by one of the ministerial advisers sitting in the gallery, because the speech was written with prior knowledge of 61 amendments that have not yet been laid on the table of the House. I hope the Government does not expect us to pass this legislation this evening. If it did, we would have no alternative but to vote against the legislation because we have not been given the opportunity as a Coalition—and I suggest probably the Independents have not seen the amendments either—to properly assess those amendments and see how they relate to the bill as it presently stands.

Again, I have raised the concerns of farmers in regional and rural New South Wales because they are being absolutely monstered by government departments with police in tow over the clearing of woody weeds. I compare that to what is being proposed in this legislation. To talk about world-leading carbon credits is nonsense. As a former Minister for Forests the honourable member for Granville knows we do not have the plantations of softwood and hardwood up to date in this State. Hundreds of thousands of hectares of land should have been replanted on a second rotation but have not been replanted. The Government cannot talk about storing carbon. It cannot blame Kyoto or the Federal Government. This Government has not kept pace. It has sold carbon credits to Japan and to Italy but the companies that bought them have not planted the amount of timber they agreed to plant in their original contracts with the people of New South Wales.

We have to have a good look at what rules apply to Sydney and what rules apply to regional New South Wales. That will clearly demonstrates the hypocrisy of this Government. If the Government wants to buy land cheaply in the electorate of Bega, in my electorate or anywhere on the North Coast or South Coast because it has ruined the private native forest industry, and it drives the value of that land down and buys it cheaply, but subdivides land worth millions of dollars in Sydney, the people in the bush will pay for it. Bushfires will ensue from the lack of management. Feral animals will breed on that land because it will not be managed properly.

I do not trust the Government on these issues. Last weekend we saw fires burning in our national parks, and that frightens me. The Government ought to withdraw this legislation. We heard tonight the letters and comments from several development groups. Let us have another look at the legislation. If the Government is going to biobank, it should do it in its own backyard, not in the backyard of people in regional and rural Australia.

Debate adjourned on motion by Mr Grant McBride.

SPECIAL ADJOURNMENT

Motion by Mr Grant McBride agreed to:

That the House at its rising this day do adjourn until Thursday 28 September 2006 at 10.00 a.m.

The House adjourned at 10.25 p.m. until Thursday 28 September 2006 at 10.00 a.m.